

ATTACHMENT 66

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Stocker, Norm

April 24, 2014

1

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PROCESSED EGG PRODUCTS

MDL NO. 2002

ANTITRUST LITIGATION

08-MD-02002

THIS DOCUMENT RELATES TO ALL
ACTIONS

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
TWENTY-NINTH JUDICIAL DISTRICT

ASSOCIATED WHOLESALE GROCERS,
INC., et al.,

Case No. 10-cv-2171
Division III

Plaintiffs and Counter-
Defendants,

v.

UNITED EGG PRODUCERS, et al.,
Defendants.

Thursday, April 24, 2014

9:30 a.m.

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Videotaped deposition of NORM STOCKER

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2 (Pages 2 to 5)

<p>2</p> <p>1 Videotaped deposition of NORM STOCKER, convened at 2 the law offices of Nilan Johnson Lewis, P.A., 120 South 3 6th Street, Suite 400, Minneapolis, Minnesota 55402, 4 pursuant to notice, the proceedings being recorded 5 stenographically by Jonathan Wonnell, a Registered 6 Professional Court Reporter (NCRA #835577) and Notary 7 Public of the State of Minnesota, and transcribed under 8 his direction.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of Cargill: 4 ANDREW SVEEN, ESQ. 5 Nilan Johnson Lewis, P.A. 6 120 South 6th Street, Suite 400 7 Minneapolis, Minnesota 55402 8 (612) 305-7500 9 asveen@nilanjohnson.com 10 -- and -- 11 JILL K. PEARSON, ESQ. 12 Cargill 13 15407 McGinty Road West, MS 24 14 Wayzata, Minnesota 55391 15 (952) 742-2296 16 jill_pearson@cargill.com 17 18 19 20 21 22 23 24 25</p> <p>3</p> <p>5</p> <p>1 A P P E A R A N C E S O F C O U N S E L</p> <p>2</p> <p>3 On behalf of Daybreak Foods: 4 ADRIAN FONTECILLA, ESQ. 5 Proskauer Rose LLP 6 1001 Pennsylvania Avenue, N.W., Suite 7 400 South 8 Washington, D.C. 20004 9 (202) 416-6800 10 afontecilla@proskauer.com</p> <p>12 On behalf of Associated Wholesale Grocers, 13 Inc., et al.: 14 RACHEL E. SCHWARTZ, ESQ. 15 Stueve, Siegel & Hanson LLP 16 460 Nichols Road, Suite 200 17 Kansas City, Missouri 64112 18 (816) 714-7100 19 schwartz@stuevesiegel.com</p> <p>13 On behalf of Sparboe Farms: 14 MATTHEW HARTUNG, ESQ. 15 TROY J. HUTCHINSON, ESQ. (via phone) 16 Hutchinson P.A. 17 907 East Wayzata Boulevard, Suite 330 18 Wayzata, Minnesota 55391 19 (952) 215-0141 20 mhartung@hutchinson-legal.com 21 thutchinson@hutchinson-legal.com</p> <p>13 On behalf of Michael Foods: 14 SHARON R. MARKOWITZ, ESQ. 15 Stinson Leonard Street 16 150 South Fifth Street, Suite 2300 17 Minneapolis, Minnesota 55402 18 (612) 335-1974 19 sharon.markowitz@stinsonleonard.com 20 21 22 23 24 25</p>
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<p style="text-align: center;">6</p> <p>1 APP E A R A N C E S (Cont'd)</p> <p>2</p> <p>3 On behalf of the Direct Purchaser Plaintiffs:</p> <p>4 MICHELLE J. LOOBY, ESQ.</p> <p>5 Gustafson Gluek, PLLC</p> <p>6 Canadian Pacific Plaza</p> <p>7 120 South 6th Street, Suite 2600</p> <p>8 Minneapolis, Minnesota 55402</p> <p>9 (612) 338-8844</p> <p>10 mlooby@gustafsongluek.com</p> <p>11 -- and --</p> <p>12 JAMES T. ALMON, ESQ. (via phone)</p> <p>13 Kenny Nachwalter</p> <p>14 1100 Miami Center</p> <p>15 201 South Biscayne Boulevard</p> <p>16 Miami, Florida 33131</p> <p>17 (305) 373-1000</p> <p>18 jalmon@kennynachwalter.com</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 SUSAN WHITMAN, paralegal, Cargill</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">8</p> <p>1 P R O C E E D I N G S</p> <p>2 (9:34 a.m.)</p> <p>3 THE VIDEOGRAPHER: We are on the record.</p> <p>4 This is the videotaped deposition of Norm R.</p> <p>5 Stocker taken on April 24th 2014.</p> <p>6 The time now is 9:34 a.m. This</p> <p>7 deposition is being taken In Re: Processed Egg</p> <p>8 Products Antitrust Litigation in the United States</p> <p>9 District Court for the Eastern District of</p> <p>10 Pennsylvania, Case Number 08-MD-02002, and also</p> <p>11 cross-noticed in the case Associated Wholesale</p> <p>12 Grocers Incorporated, et al. versus United Egg</p> <p>13 Producers, et al. in the District Court of</p> <p>14 Wyandotte County, Kansas, 29th Judicial District,</p> <p>15 Case Number 10-CV-2171.</p> <p>16 This deposition is taking place in</p> <p>17 Minneapolis, Minnesota. My name is Adam Wallin.</p> <p>18 I'm the videographer representing Henderson Legal</p> <p>19 Services. Will counsel please identify themselves</p> <p>20 for the record.</p> <p>21 MR. FONTECILLA: Good morning. Adrian</p> <p>22 Fontecilla with the firm Proskauer Rose on behalf</p> <p>23 of defendant Daybreak Foods.</p> <p>24 MR. HARTUNG: Matthew Hartung with</p> <p>25 Hutchinson, PA on behalf of Sparboe Farms.</p>																																		
<p style="text-align: center;">7</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding-bottom: 2px;">1 C O N T E N T S</th> <th style="text-align: right; padding-bottom: 2px;">2</th> </tr> <tr> <th style="text-align: left; padding-bottom: 2px;">3 WITNESS</th> <th style="text-align: right; padding-bottom: 2px;">4 PAGE</th> </tr> </thead> <tbody> <tr> <td style="text-align: left; vertical-align: bottom;">5 NORM R. 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MARKOWITZ: Sharon Markowitz with Simpson Leonard Street on behalf of Michael Foods.</p> <p>2 MS. LOOBY: Michelle Looby, Gustafson</p> <p>3 Gluek, on behalf of the direct purchaser</p> <p>4 plaintiffs.</p> <p>5 MS. SCHWARTZ: Rachel Schwartz of Stuve Siegel Hanson on behalf of the Kansas plaintiffs.</p> <p>6 MR. ALMON: James Almon from Kenny</p> <p>7 Nachwalter on behalf of the direct action</p> <p>8 plaintiffs and the corporate plaintiffs.</p> <p>9 MR. SVEEN: Andy Sveen along with Jill</p> <p>10 Pearson and Susan Whitman on behalf of Cargill,</p> <p>11 third-party witness.</p> <p>12 THE VIDEOGRAPHER: Will the court</p> <p>13 reporter please swear in the witness.</p> <p>14 MR. FONTECILLA: Troy, do you want to</p> <p>15 introduce yourself for the record?</p> <p>16 MR. HUTCHINSON: Yeah. And I'm having a</p> <p>17 really hard time hearing everybody. I don't know</p> <p>18 if there's anything you can do with the phone</p> <p>19 audio.</p> <p>20 MR. SVEEN: Just a second, Troy. Troy,</p> <p>21 is that better?</p> <p>22 MR. HUTCHINSON: Yeah. That is a lot</p> <p>23 better. Thank you. Troy Hutchinson on behalf of</p>
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<p style="text-align: center;">10</p> <p>1 Sparboe Farms. 2 * * * * *</p> <p>3 Whereupon, 4 NORM R. STOCKER, 5 called as a Witness, was duly sworn by 6 Jonathan Wonnell, a Notary Public in and 7 for the State of Minnesota, and was 8 examined and testified as follows. 9 * * * * *</p> <p>10 EXAMINATION BY COUNSEL FOR DAYBREAK FOODS 11 BY MR. FONTECILLA: 12 Q. Good morning, Mr. Stocker. My name is 13 Adrian Fontecilla. I represent defendant Daybreak 14 Foods in the eggs litigation that was introduced 15 earlier. 16 I'm going to go over a couple of quick 17 ground rules. The first one is that the court 18 reporter is going to be typing everything today, so 19 we need to speak a little slowly, and I will try to 20 do that as well. The other rule is that he's going 21 to need verbal responses from you. No nods of the 22 head, no mm-hmms. They'll need to be yes or nos or 23 some kind of verbal response. Do you understand 24 that? 25 A. Yes.</p>	<p style="text-align: center;">12</p> <p>1 Q. Sunny Fresh Foods. Excuse me. 2 A. Yes. That was our company. We were a 3 wholly owned subsidiary prior to changing our name 4 to tie up to the Cargill brand. So prior to 5 Cargill Kitchen Solutions, Inc., we were Sunny 6 Fresh Foods, Inc. 7 Q. And what year did the name change? 8 A. I don't actually recall specifically. 9 It was probably five years ago. 10 Q. And when did you start working at 11 Cargill Kitchen Solutions or Sunny Fresh Foods? 12 A. I came to Sunny Fresh Foods back in July 13 of 1999. 14 Q. And is it okay with you today if when I 15 refer to Cargill, I'm meaning Cargill Kitchen 16 Solutions or, if the time period is correct, Sunny 17 Fresh Foods in that case? Is that okay with you? 18 A. Yes. 19 Q. And just correct me if in any instance 20 that's not accurate. What was your position when 21 you first started at Cargill? 22 A. In July of '99, I came on board as the 23 risk manager for Sunny Fresh Foods. 24 Q. And how long were you in that position? 25 A. I was in that role for four years.</p>
<p style="text-align: center;">11</p> <p>1 Q. And if you need a break, just let us 2 know. If you don't understand any of my questions 3 or any of the questions that other attorneys might 4 ask you, just feel free to just let me know you 5 don't understand. I'll rephrase it. 6 And my questions today are going to be 7 from the time 1999 through 2008, so you can get 8 your mind around that time period unless I'm asking 9 about a specific year. 10 What company do you work for, 11 Mr. Stocker? 12 A. I work for Cargill Kitchen Solutions. 13 Q. And what does Cargill Kitchen Solutions 14 do? 15 A. Basically we're in the egg further 16 processing business within Cargill. 17 Q. And what products does Cargill Kitchen 18 Solutions sell? 19 A. Products are further processed eggs 20 products, liquid -- liquid products in different 21 packaging types, cooked products, omelettes, 22 patties and hard-cooked eggs, french toast. 23 Q. And are you familiar with an entity 24 named Sun Fresh Farms? 25 A. I'm familiar with Sunny Fresh Foods.</p>	<p style="text-align: center;">13</p> <p>1 Q. And what position did you move to after 2 you were risk manager? 3 A. In July of 2003, I took over as head of 4 procurement, as procurement manager. 5 Q. And is that the position you're in 6 today? 7 A. My role today is director of supply 8 chain. 9 Q. And when did you move to director of 10 supply chain? 11 A. Two and a half to -- two and a half 12 years ago. 13 Q. So around 2012? 14 A. Yes. '12 or '11. I actually can't 15 recall. I'm sorry. 16 Q. And in your role as head of procurement 17 and director of supply chain, based on those jobs, 18 are you familiar with the products that Cargill 19 purchased between 1999 and 2008? Generally 20 familiar. 21 A. Yes, I had responsibility for our egg 22 purchases over all those years. 23 Q. And that would include purchases of 24 shell eggs as well as liquid egg product? 25 A. That is correct.</p>

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<p style="text-align: center;">14</p> <p>1 Q. And based on your roles at Cargill 2 Kitchen Solutions, are you familiar with the 3 products that Cargill sold during that time period?</p> <p>4 A. Yes.</p> <p>5 Q. And are you generally familiar with the 6 identity of the suppliers that Cargill used?</p> <p>7 A. Yes.</p> <p>8 Q. And are you generally familiar with the 9 pricing terms under which Cargill purchased any 10 products from its suppliers?</p> <p>11 A. Yes.</p> <p>12 Q. And are you generally familiar with the 13 contracts or business arrangements under which 14 Cargill purchased those products?</p> <p>15 A. Which time period, again?</p> <p>16 Q. 1999 through 2008.</p> <p>17 A. More familiar from 2003 forward. We had 18 a different gentleman who's retired now that was in 19 charge of egg procurement when I got there in '99 20 through 2003. So the contracts are in the files, 21 but I didn't directly negotiate those prior to July 22 of 2003.</p> <p>23 Q. And are you generally familiar with 24 Cargill's customers between 1999 and 2008?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">16</p> <p>1 Q. And has that been the case since 1999?</p> <p>2 A. Yes.</p> <p>3 Q. And are you familiar with the term 4 "further processed egg products," which I think you 5 mentioned earlier?</p> <p>6 A. Yes, I am.</p> <p>7 Q. And how are you familiar with that term?</p> <p>8 A. For the most part, that's the industry 9 that we feel we're in on the egg product side, is 10 in further processed egg products.</p> <p>11 Q. Those are the products that Cargill 12 sells?</p> <p>13 A. That is correct.</p> <p>14 Q. And are you familiar with the term "raw, 15 unpasteurized liquid egg"?</p> <p>16 A. Yes.</p> <p>17 Q. And how are you familiar with that term?</p> <p>18 A. All the liquid egg product that we bring 19 in is raw, unpasteurized liquid egg products.</p> <p>20 Q. And that's the product that uses an 21 ingredient to make further processed egg products; 22 is that correct?</p> <p>23 A. That is correct.</p> <p>24 Q. And how, if at all, is the raw, 25 unpasteurized liquid egg different from what is</p>
<p style="text-align: center;">15</p> <p>1 Q. And are you generally familiar with any 2 specifications they required of the products that 3 Cargill purchased?</p> <p>4 A. Could you be more specific on the 5 specifications?</p> <p>6 Q. Sure. Just generally aware of whether 7 they had specifications and what those might be.</p> <p>8 A. I was more aware of the standards they 9 expected of me on egg buying; much less aware of 10 finished product specifications, for example. So I 11 knew what I was expected to buy on the inbound side 12 to meet the customers' outbound requirements, but 13 QA was more in charge of the outbound stuff.</p> <p>14 Q. When you mean outbound, you mean 15 downstream sales to --</p> <p>16 A. Micro, sensory, all that kind of stuff 17 that goes with the finished product requirement. 18 That was in other departments.</p> <p>19 Q. Do you know whether Cargill owns 20 egg-laying hens?</p> <p>21 A. Yes.</p> <p>22 Q. And does it today own any egg-laying 23 hens?</p> <p>24 A. Cargill does not own any egg-laying 25 hens.</p>	<p style="text-align: center;">17</p> <p>1 commonly referred to as eggs?</p> <p>2 A. The difference would be is that raw 3 products are still under USDA continuous inspection 4 and are not yet ready for consumer purchase.</p> <p>5 Q. And in addition of raw, unpasteurized 6 liquid egg, does Cargill purchase any other 7 products in connection with its manufacturing of 8 further processed egg products?</p> <p>9 A. Specifically egg type?</p> <p>10 Q. Yes.</p> <p>11 A. We buy shell eggs, for example, for hard 12 cooking.</p> <p>13 Q. Between 1999 and today, has Cargill 14 purchased raw, unpasteurized liquid egg from 15 Daybreak?</p> <p>16 A. Yes.</p> <p>17 Q. And for that same time period, has 18 Cargill purchased raw, unpasteurized liquid egg 19 from Daybreak pursuant to long-term supply 20 contracts?</p> <p>21 A. Yes.</p> <p>22 Q. And are you familiar with the term 23 "grain-based formulas"?</p> <p>24 A. Yes, I am.</p> <p>25 Q. And how are you familiar with that term?</p>

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<p style="text-align: center;">18</p> <p>A. Many of our purchase agreements are based on grain-based pricing methods.</p> <p>Q. And what is a grain-based pricing method, if you could explain that, please?</p> <p>A. At a high level, it's basically a purchasing agreement that utilizes corn and soybean meal prices on the Chicago Board of Trade to price the liquid egg coming -- the raw liquid egg coming into our plants.</p> <p>Q. And are the corn and soybean and other ingredients that you mentioned, are those ingredients that are used in connection with the feed used for egg-laying hens?</p> <p>A. That is correct.</p> <p>Q. And that's why the formula for the supply contracts that Cargill uses incorporates that, right?</p> <p>MS. SCHWARTZ: Objection to form.</p> <p>A. That is correct. Sorry.</p> <p>BY MR. FONTECILLA:</p> <p>Q. The other rule I should have gone other is some attorneys in the room might object from time to time, and your attorney may instruct you not to answer, but otherwise, just feel free to answer the question or ask me to repeat it.</p>	<p style="text-align: center;">20</p> <p>Q. And is that sometimes commonly referred to as a market purchase or a spot basis purchase?</p> <p>A. Yes. It would be.</p> <p>Q. And in what instances would Cargill need to purchase raw, unpasteurized liquid egg from Daybreak on a market basis if it had long-term supply agreements?</p> <p>A. Primarily to fill in gaps due to seasonality of our customers' demands.</p> <p>Q. Between 1999 and the present, if you can approximately estimate, approximately how frequently has Cargill purchased raw, unpasteurized liquid egg from Daybreak on a market basis?</p> <p>A. Could you define "frequently"?</p> <p>Q. Sure. Is it from, you know, extremely rare to extremely frequent, you know, in your own words?</p> <p>MS. SCHWARTZ: Objection, calls for speculation.</p> <p>A. It's closer to extremely rare.</p> <p>BY MR. FONTECILLA:</p> <p>Q. And what is the basis for your characterization of that?</p> <p>A. It's not a predominant part of our purchasing from Daybreak Foods. It's an occasional</p>
<p style="text-align: center;">19</p> <p>In the supply contracts that Cargill had with Daybreak between 1999 and the present, what was the price term that was included in those supply contracts?</p> <p>MR. SVEEN: Object.</p> <p>A. The price term?</p> <p>BY MR. FONTECILLA:</p> <p>Q. Sure. Were the prices under those supply contracts between Cargill and Daybreak -- did they employ a grain-based formula like we just discussed?</p> <p>A. Yes. They were based on grain prices.</p> <p>Q. Were the supply contracts between Cargill and Daybreak between 1999 and 2008 ever based on an Urner Barry index?</p> <p>A. Not that I recall.</p> <p>Q. And between 1999 and 2008, was all of the raw, unpasteurized liquid egg that Cargill purchased from Daybreak pursuant to long-term supply agreements?</p> <p>A. No, it was not.</p> <p>Q. In what other ways did Cargill purchase raw, unpasteurized liquid egg from Daybreak?</p> <p>A. We occasionally would buy based on the Urner Barry market as needed.</p>	<p style="text-align: center;">21</p> <p>part.</p> <p>Q. In those occasional or extremely rare instances where Cargill purchased raw, unpasteurized eggs from Daybreak on a market basis, how is the pricing determined in those instances?</p> <p>A. Primarily on the prior Thursday quote from Urner Barry.</p> <p>Q. Has it ever been -- have those market-basis purchases ever been based on a grain-based formula?</p> <p>A. Not that I'm aware of.</p> <p>Q. Is the pricing that is used in those market purchases negotiated between Cargill and Daybreak?</p> <p>A. Only to the degree that we agree on the day and which part -- which relevant Urner Barry quote we're utilizing.</p> <p>Q. Is the price term used in those market purchases by Cargill from Daybreak imposed on Cargill by Daybreak?</p> <p>MS. SCHWARTZ: Objection, form.</p> <p>MR. SVEEN: Answer it if you can.</p> <p>A. No, it's not.</p> <p>BY MR. FONTECILLA:</p> <p>Q. Did Daybreak ever refuse to use pricing</p>

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<p style="text-align: center;">22</p> <p>1 terms requested by Cargill in purchasing raw, 2 unpasteurized liquid egg?</p> <p>3 A. Could you clarify that a little, please?</p> <p>4 Q. Sure. Were there ever instances when 5 Cargill sought to purchase raw, unpasteurized 6 liquid egg and requested a type of pricing, and 7 Daybreak refused to adhere to that request?</p> <p>8 A. Yes.</p> <p>9 Q. And what instances were those?</p> <p>10 A. I don't recall any specifics, but there -- like with any relationship, if I'm out looking for egg and if they've got it, we come to terms; if they don't, they can't always provide me product. So in my mind, that's a time when you don't come to terms on -- I have a need and they don't have a supply, and that's no agreement.</p> <p>11 Q. In those instances when the parties are 12 unable to come to terms, to the best of your 13 recollection, between 1999 and today, has that 14 inability to reach terms ever arisen as a result of 15 Daybreak refusing to adhere to a specific pricing 16 formula or pricing mechanism?</p> <p>17 MS. SCHWARTZ: Objection, form.</p> <p>18 MR. SVEEN: Same objection. Asked and 19 answered. If you can understand the question --</p>	<p style="text-align: center;">24</p> <p>1 Q. And did Cargill include those animal 2 welfare specifications required by its customers in 3 Cargill's supply agreements with Daybreak?</p> <p>4 A. Yes.</p> <p>5 Q. And did Cargill require Daybreak to 6 comply with those specifications?</p> <p>7 A. Yes.</p> <p>8 Q. And specifically, did Cargill include in 9 its supply agreements with Daybreak specifications 10 related to the cage space allocation for egg-laying 11 hens?</p> <p>12 A. Yes.</p> <p>13 Q. And were those the specifications that 14 were -- excuse me. Were those the specifications 15 that were required by Cargill's finished product 16 customer?</p> <p>17 A. In most cases. It was either Cargill's requirement or our customers' requirement.</p> <p>18 Q. And did the cage space allocation 19 specifications require that Daybreak allow a 20 minimum amount of space per hen in the cages?</p> <p>21 A. Could you repeat the question?</p> <p>22 Q. Sure. Were some of the specifications 23 we've been discussing that were included in the 24 supply agreements between Daybreak and Cargill that</p>
<p style="text-align: center;">23</p> <p>1 A. I'm not sure I understand that question.</p> <p>2 BY MR. FONTECILLA:</p> <p>3 Q. For what purposes, if any, does Cargill 4 purchase raw, unpasteurized liquid egg from 5 Daybreak?</p> <p>6 A. To meet our customers' needs.</p> <p>7 Q. And generally what are those customers' 8 needs in connection with Cargill's purchases of 9 raw, unpasteurized liquid egg from Daybreak?</p> <p>10 A. The needs are generally, you know, within a defined spec, so there are multiple needs. Product availability. It could be animal husbandry standards, could be microbe levels, could be finished product sensory evaluations, et cetera. So multiple characteristics to meet the finished customers' needs.</p> <p>11 Q. Did the finished customer for Cargill, 12 between 1999 and 2008, ever require certain 13 specifications related to the animal welfare 14 practices used in the egg-laying hen process?</p> <p>15 A. Yes.</p> <p>16 Q. And did any of those specifications 17 relate to the cage space allocation requirements to 18 be used by the egg producer?</p> <p>19 A. Yes.</p>	<p style="text-align: center;">25</p> <p>1 related to cage space, did those require a minimum 2 amount of space for each egg-laying hen?</p> <p>3 A. Yes.</p> <p>4 Q. Did Cargill believe that having Daybreak 5 comply with those cage space requirements add value 6 to Cargill?</p> <p>7 MS. SCHWARTZ: Objection to form.</p> <p>8 MR. SVEEN: You can answer.</p> <p>9 A. Yes.</p> <p>10 BY MR. FONTECILLA:</p> <p>11 Q. Are you generally familiar with the 12 Daybreak facilities that were involved in 13 manufacturing the raw, unpasteurized liquid egg 14 that was ultimately sold to Cargill?</p> <p>15 A. Yes.</p> <p>16 Q. And can you identify those facilities, 17 please?</p> <p>18 A. Just to be clear, are you asking the ones that I have long-term contracts with?</p> <p>19 Q. We'll start with those, yes.</p> <p>20 A. Yes. One facility is in Long Prairie, Minnesota. There are two facilities around Lake Mills, Wisconsin. There is one facility in Graettinger, Iowa. And there's another facility in -- I want to say it's West Mansfield, Ohio, I</p>

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<p style="text-align: right;">26</p> <p>1 think is the proper town. In what time period are 2 you talking? Up through 2008?</p> <p>3 Q. Between 1999 and 2008.</p> <p>4 A. That would cover it.</p> <p>5 Q. You mentioned two facilities near Lake 6 Mills. Is one of those the Creekwood facility?</p> <p>7 A. That is correct.</p> <p>8 Q. And the one in Ohio, is it also commonly 9 referred to or sometimes referred to as the Mad 10 River facility?</p> <p>11 A. That is correct.</p> <p>12 Q. So if my math is correct, that's five 13 facilities that Daybreak uses to supply Cargill 14 with its raw, unpasteurized liquid egg between 1999 15 and 2008; is that right?</p> <p>16 A. That is correct.</p> <p>17 Q. So I'm going to ask a couple questions 18 about each one, and I'll start with the Creekwood 19 facility. At any time between 1999 and 2008, did 20 Cargill require that Daybreak adopt the minimum 21 cage space requirements we discussed earlier at its 22 Creekwood facility?</p> <p>23 A. Yes. That was required from inception, 24 which I believe was in 2008.</p> <p>25 Q. And what was the cage space per hen</p>	<p style="text-align: right;">28</p> <p>1 Cargill required of Daybreak at that facility?</p> <p>2 A. It was similar to Creekwood in that it 3 supported the phase-in of the United Egg Producers' 4 animal husbandry guidelines. So ultimately to be 5 at 67 square inches upon the agreed-upon phase-in 6 program.</p> <p>7 Q. And did Cargill require that cage space 8 allocation because it was a specification required 9 by Cargill's finished product customer?</p> <p>10 A. Yes. We were meeting our customers' 11 needs.</p> <p>12 Q. And when did Daybreak finish phasing in 13 the cage space requirement at the Lake Mills 14 facility?</p> <p>15 A. I believe that was in early 2010 as 16 well.</p> <p>17 Q. And at the Long Prairie facility -- 18 that's in Minnesota, right?</p> <p>19 A. That is correct.</p> <p>20 Q. And at any time between 1999 and 2008, 21 did Cargill require that Daybreak adopt a cage 22 space minimum requirement at that facility?</p> <p>23 A. Yes. We required that at the same time 24 as we initiated that requirement for the Lake Mills 25 facility.</p>
<p style="text-align: right;">27</p> <p>1 required by Cargill at that facility?</p> <p>2 A. We were supporting the UEP animal 3 husbandry guidelines which had a phase-in based on 4 hatch date of the hens that ultimately phased into 5 67 square inches in 2010 across all the barns.</p> <p>6 Q. And was that a requirement that Cargill 7 required of Daybreak because of a customer, a 8 finished product customer requirement of Cargill's?</p> <p>9 A. Yes. We were trying to meet our 10 customers' needs.</p> <p>11 Q. And did Daybreak comply with Cargill's 12 requirement for cage space allocation at the 13 Creekwood facility?</p> <p>14 A. Yes.</p> <p>15 Q. And when did Daybreak finish phasing in 16 the cage space requirement?</p> <p>17 A. I don't recall the specific dates, but 18 it was sometime in 2010 that I believe it was 19 phased in across all barns.</p> <p>20 Q. And at the Lake Mills facility in 21 Wisconsin at any time between 1999 and 2008, did 22 Cargill require that Daybreak adopt a minimum cage 23 space requirement at that facility?</p> <p>24 A. Yes, we did sometime around 2006.</p> <p>25 Q. And what was the cage space per hen that</p>	<p style="text-align: right;">29</p> <p>1 Q. And that was in 2008?</p> <p>2 A. We requested that in 2006. The phase-in 3 for the program occurred over several years and was 4 ultimately phased in by 2010.</p> <p>5 Q. And what was the cage space per hen 6 requirement that Cargill required of Daybreak at 7 its Long Prairie facility?</p> <p>8 A. That went to 67 square inches as well.</p> <p>9 Q. And did Daybreak comply with that 10 requirement ultimately?</p> <p>11 A. Yes, they did.</p> <p>12 Q. And at the Mad River facility in Ohio at 13 any time between 1999 and 2008, did Cargill require 14 Daybreak to adopt a minimum cage space requirement?</p> <p>15 A. Yes. That was required at the beginning 16 when they purchased that facility.</p> <p>17 Q. And about what year was that, if you can 18 remember?</p> <p>19 A. I believe it was 2007.</p> <p>20 Q. And what was the cage space per hen 21 requirement that Cargill required of Daybreak at 22 that facility?</p> <p>23 A. That was the same, in that it required 24 67 square inches upon completion of the phase-in 25 which, again, I believe occurred early in 2010.</p>

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<p style="text-align: right;">30</p> <p>1 Q. And at the Graettinger facility at any 2 time between 1999 and 2008, did Cargill require 3 Daybreak to adopt minimum cage space requirements? 4 A. Yes, we did. 5 Q. And what was the cage space requirement 6 that Cargill required of Daybreak at its 7 Graettinger facility? 8 A. Graettinger was 72 square inches 9 minimum. 10 Q. And did Cargill require this cage space 11 allocation because it was required of Cargill's 12 finished product customer? 13 A. Yes. It was a customer request. 14 Q. And did Daybreak comply with the 15 requirement? 16 A. Yes, they did. 17 Q. And when was the phase-in completed at 18 the Graettinger facility? 19 A. I don't recall the specific dates, but 20 that was a quicker implementation. I believe it 21 was either 2004 or 2005. 22 Q. Going back to the Long Prairie facility, 23 was the minimum cage space requirement that Cargill required of Daybreak at the Long Prairie facility 24 a -- was it required because it was a specification</p>	<p style="text-align: right;">32</p> <p>1 animal husbandry guidelines include a minimum cage 2 space requirement? 3 A. Yes. 4 Q. And were the requirements that Cargill 5 required of Daybreak sometimes similar or 6 consistent with those cage space requirements? 7 A. Yes, they were. 8 Q. And was that because those were the 9 guidelines that were specified by Cargill's 10 customers? 11 MS. SCHWARTZ: Objection, form. 12 A. They were required either by Cargill or 13 to meet our customers' needs. 14 BY MR. FONTECILLA: 15 Q. Are there any Daybreak facilities that 16 supply Cargill with raw, unpasteurized liquid egg 17 where Cargill does not have a minimum cage space 18 requirement? 19 A. An occasional market purchase could meet 20 that criteria. 21 Q. And are you aware of the identity of the 22 Daybreak facility that might supply Cargill with 23 any raw, unpasteurized liquid egg that it purchases 24 on a market basis? 25 A. Yes.</p>
<p style="text-align: right;">31</p> <p>1 required of Cargill by its customer? 2 A. Yes. We were trying to meet our 3 customers' needs. 4 Q. And is that also the case at the Mad 5 River facility in Ohio? 6 A. Yes. That is correct. 7 Q. Are you aware whether Daybreak operates 8 any facilities that do not supply Cargill with raw, 9 unpasteurized liquid egg? 10 A. Yes. 11 Q. And has Cargill ever required Daybreak 12 to implement minimum cage space requirements at 13 those facilities? 14 A. No, we have not. 15 Q. And why not? 16 A. We only have guidelines on the eggs 17 we're buying from Daybreak to meet our customers' 18 needs, and let them choose to do what they want 19 with the rest of their business. 20 Q. And earlier you mentioned UEP animal 21 husbandry guidelines. Between 1999 and today, has 22 Cargill ever required Daybreak to comply with the 23 UEP animal husbandry guidelines in their entirety? 24 A. No. We have not. 25 Q. And are you aware of whether the UEP</p>	<p style="text-align: right;">33</p> <p>1 Would those be the same facilities that 2 we discussed earlier? 3 A. The Long Prairie facility would have the 4 ability to do a market purchase. 5 Q. Do you have an understanding of the term 6 "UEP certified"? <p>7 A. Yes. 8 Q. And what do you understand that term to 9 mean? 10 A. UEP certified means a producer is 11 following 100 percent off the UEP animal husbandry 12 guidelines and criteria. 13 Q. Did Daybreak -- excuse me. 14 Did Cargill ever require Daybreak to be 15 certified by the UEP? 16 A. No. 17 Q. Did Cargill ever require Daybreak to 18 participate in the UEP Certified program? 19 A. No. 20 Q. Did Cargill ever require Daybreak or any 21 of Daybreak's facilities to be audited by the UEP? 22 A. No. 23 Q. Did Cargill ever require Daybreak to 24 send the results of any audit or reports of its 25 facility to UEP?</p> </p>

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<p style="text-align: right;">34</p> <p>1 A. No. 2 Q. Did Cargill ever require Daybreak to 3 sell to Cargill UEP Certified shell eggs? 4 A. No. 5 Q. And kind of shifting gears a little bit 6 to shell eggs for a moment, between 1999 and 2008, 7 in those instances where Cargill purchased shell 8 eggs from Daybreak, did it require that those shell 9 eggs be produced pursuant to any animal welfare 10 guidelines? 11 A. No. 12 Q. Are you generally familiar with any cost 13 implications that might result as a result of 14 Cargill implementing any requirements or 15 specifications related to animal welfare? 16 A. Yes. 17 Q. And are you aware of whether Daybreak 18 would have sustained or incurred any costs in 19 connection with complying with Cargill's animal 20 welfare specifications? 21 MR. SVEEN: Objection, calls for 22 speculation. 23 A. Yes. 24 BY MR. FONTECILLA: 25 Q. And how would you be aware of that?</p>	<p style="text-align: right;">36</p> <p>1 for the raw, unpasteurized liquid egg that Daybreak 2 was going to supply it by conforming to the animal 3 welfare practices required in the supply 4 agreements? 5 MS. SCHWARTZ: Objection to form. 6 A. Yes. 7 BY MR. FONTECILLA: 8 Q. And did it do that because Cargill 9 believed that those practices added value? 10 A. Yes. We were meeting customer needs. 11 Q. Are you aware of a term "animal welfare 12 premium"? 13 A. Yes. 14 Q. What is your understanding of that term? 15 A. It generally is a term that's utilized 16 to talk about the higher cost of producing eggs at 17 a different animal husbandry practice than is 18 conventionally understood. 19 Q. And between 1999 and 2008, has Cargill 20 paid Daybreak an animal welfare premium in 21 connection with its purchases of raw, unpasteurized 22 liquid egg? 23 A. Yes. 24 Q. And was that premium negotiated between 25 Daybreak and Cargill prior to entering into the</p>
<p style="text-align: right;">35</p> <p>1 A. Through negotiations and discussions 2 about the cost implications of those decisions. 3 Q. Did Daybreak, between 1999 and 2008, 4 share that information with Cargill? 5 A. Yes. 6 Q. And, specifically, were you aware at any 7 time between 1999 and 2008 whether Daybreak's 8 compliance with animal welfare specifications in 9 the long-term supply agreements with Cargill would 10 affect the cost for Daybreak to produce raw, 11 unpasteurized liquid egg that it sold to Cargill? 12 A. Yes. 13 Q. And what is your understanding of what 14 those cost implications would be? 15 A. The primary cost impact was the density, 16 amount of space per bird. 17 Q. And how did that affect the cost? 18 A. In simple terms, you have fewer birds in 19 a house or in a cage, and so you have, in essence, 20 more depreciation per bird or more housing cost. 21 Q. And were you made aware of this before 22 entering into the supply agreements that had the 23 animal welfare specifications? 24 A. Yes. 25 Q. Did Cargill knowingly agree to pay more</p>	<p style="text-align: right;">37</p> <p>1 long-term supply agreement that might include that 2 premium? 3 A. Yes. 4 Q. Are you aware that a lawsuit has been 5 filed against Daybreak and other egg producers? 6 A. Yes. 7 Q. And are you aware that that lawsuit 8 alleges in part that the UEP guidelines we 9 discussed earlier were not actually designed for 10 the welfare of the animals but, instead, were a 11 mechanism by which egg producers sought to limit 12 the supply of eggs in the United States? 13 A. Yes. 14 Q. Do you have any reason to believe that 15 that allegation is accurate? 16 MR. SVEEN: You're asking for his 17 personal opinion on a legal issue? I'm going to 18 object to calls for a legal conclusion, but if you 19 have a personal opinion, you can give it to him. 20 A. Yeah. So not understanding the total 21 legalities of it, could you repeat the question? 22 BY MR. FONTECILLA: 23 Q. Sure. Is there anything that, in your 24 personal recollection or personal understanding, 25 that you believe is consistent with the plaintiff's</p>

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<p style="text-align: right;">38</p> <p>1 allegation that the UEP guidelines are nothing more 2 than an effort to limit the supply of eggs?</p> <p>3 MR. SVEEN: Objection that it calls for 4 a legal conclusion. Foundation. But answer if you 5 can, I guess.</p> <p>6 A. No. Actually, I think they set the 7 program up to try to prevent that.</p> <p>8 MR. FONTECILLA: Okay. I have no 9 further questions. Thank you, Mr. Stocker.</p> <p>10 MR. HARTUNG: I have a few questions, 11 but could we take a short break? Five minutes?</p> <p>12 MR. SVEEN: Sure.</p> <p>13 THE VIDEOGRAPHER: We are going off the 14 record at 10:10 a.m.</p> <p>15 (Whereupon, a recess was taken from 16 10:10 a.m to 10:19 a.m.)</p> <p>17 THE VIDEOGRAPHER: We are back on the 18 record at 10:19 a.m.</p> <p>19 EXAMINATION BY COUNSEL FOR SPARBOE FARMS 20 BY MR. HARTUNG:</p> <p>21 Q. Good morning, Mr. Stocker. My name is 22 Matthew Hartung, I'm counsel representing Sparboe 23 Farms. I'm going to hand you a document here 24 marked as Exhibit 1.</p> <p>25 (Stocker Exhibit 1 was marked for</p>	<p style="text-align: right;">40</p> <p>1 recognize the signature on the right?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Whose signature is that?</p> <p>4 A. That is Lee Skold.</p> <p>5 Q. And who is Lee Skold?</p> <p>6 A. Lee Skold at the time was the vice 7 president and our platform leader for the Sunny 8 Fresh Foods business at that time.</p> <p>9 Q. Is this the agreement that Cargill 10 Kitchen Solutions entered into with Sparboe Farms 11 in 2002?</p> <p>12 A. That is correct.</p> <p>13 Q. And you were involved in these 14 agreements?</p> <p>15 A. I was -- I was not the head of 16 procurement at this time. I took over in July of 17 2003. So I knew of these agreements and was 18 involved in some of the discussions behind the 19 scenes and on the side, but was not the direct 20 negotiator of these contracts.</p> <p>21 Q. But post 2002, you were involved in 22 these agreements?</p> <p>23 A. Post -- this agreement was signed in 24 December of 2002. So I was not the head of 25 procurement at that point in time. I was more</p>
<p style="text-align: right;">39</p> <p>1 identification.)</p> <p>2 BY MR. HARTUNG:</p> <p>3 Q. And take some time and look this over, 4 if you would.</p> <p>5 A. (Reading).</p> <p>6 MS. SCHWARTZ: Matthew, has this been 7 produced in the litigation? I see there's no Bates 8 number along the bottom of this document.</p> <p>9 MR. HARTUNG: Right. I believe it has, 10 but I can get back to you. I'm fairly certain it 11 has.</p> <p>12 MS. SCHWARTZ: Sparboe has produced this 13 in the litigation?</p> <p>14 MR. HARTUNG: I think so.</p> <p>15 BY MR. HARTUNG:</p> <p>16 Q. Have you seen this document before?</p> <p>17 A. Yes, I have.</p> <p>18 Q. And what is it?</p> <p>19 A. This is the original supply agreement 20 between Cargill and Sparboe regarding a facility 21 referred to as Vincent.</p> <p>22 Q. Now, is this a business document of 23 Cargill Kitchen Solutions?</p> <p>24 A. I do believe we created this document.</p> <p>25 Q. Could you turn to page 9. And do you</p>	<p style="text-align: right;">41</p> <p>1 involved when I took over as the head of 2 procurement post this agreement being signed.</p> <p>3 Q. And you were involved in similar 4 agreements as to this document after this document 5 was produced?</p> <p>6 MS. SCHWARTZ: Objection, form.</p> <p>7 BY MR. HARTUNG:</p> <p>8 Q. I'm sorry. I'll restate that. You were 9 involved in subsequent agreements once you took 10 over as the head of procurement?</p> <p>11 MR. SVEEN: Objection, vague. Answer if 12 you can.</p> <p>13 A. I was involved in this agreement going 14 forward and any amendments to it at that point, as 15 well as all the other supplier agreements with 16 other suppliers.</p> <p>17 BY MR. HARTUNG:</p> <p>18 Q. Is there anything about the pricing 19 information in this agreement that changed?</p> <p>20 A. That changed from the initiation?</p> <p>21 Q. Yes.</p> <p>22 A. Contractual or routine pricing -- 23 monthly pricing updates? I'm not sure I understand 24 the question.</p> <p>25 Q. Is the pricing information in this</p>

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<p style="text-align: center;">42</p> <p>1 agreement similar to that in the agreements you 2 were involved in going forward?</p> <p>3 MS. SCHWARTZ: Objection, form.</p> <p>4 A. The pricing was based off grain, which 5 is corn and soybean meal, which is -- in that 6 respect, it's similar to other grain-based 7 agreements that I put together subsequent -- or 8 following this.</p> <p>9 BY MR. HARTUNG:</p> <p>10 Q. And I know you touched upon this earlier 11 with Daybreak's counsel, but could you briefly 12 explain what grain-based pricing is?</p> <p>13 A. A grain-based contract is one where 14 primarily corn and soybean meal prices are used to 15 reset pricing on a periodic basis.</p> <p>16 Q. And was this the pricing that was 17 generally used to determine the price between 18 Cargill and Sparboe?</p> <p>19 A. Grain was used for what we term subject 20 to this location, which we termed the Vincent 21 location.</p> <p>22 Q. And where were these prices established 23 or published?</p> <p>24 A. If you're referring to the grain prices, 25 those were published on the Chicago Board of Trade.</p>	<p style="text-align: center;">44</p> <p>1 markets that don't reflect the cost of production.</p> <p>2 Q. Did Cargill require Sparboe to comply 3 with animal welfare requirements?</p> <p>4 A. We did for the Vincent facility, yes.</p> <p>5 Q. And would that include cage space?</p> <p>6 A. Yes.</p> <p>7 Q. And what was the cage space requirement?</p> <p>8 A. The requirement at Vincent was 72 square 9 inches.</p> <p>10 Q. And was Cargill's requirement with 11 Sparboe -- did that allocate more space than the 12 cage space required by UEP?</p> <p>13 A. The UEP requirement was 67 square 14 inches, and our requirement in this contract was 72 15 square inches.</p> <p>16 MR. HARTUNG: I have nothing further.</p> <p>17 MS. LOOBY: I have no questions.</p> <p>18 MS. SCHWARTZ: Troy, on the phone, do 19 you have any questions? I assume not.</p> <p>20 MR. HARTUNG: Why don't we take a break.</p> <p>21 MR. HUTCHINSON: Did someone ask me a 22 question?</p> <p>23 MR. SVEEN: No. I think, Troy -- you 24 don't have any questions. Your associate asked 25 questions.</p>
<p style="text-align: center;">43</p> <p>1 Q. So the Urner Barry index was not used 2 for pricing for the contract between Cargill and 3 Sparboe?</p> <p>4 A. There was no Urner Barry component as 5 part of this contract.</p> <p>6 Q. Do you know why Cargill Kitchen 7 Solutions wanted to use a grain-based contract 8 rather than set pricing under Urner Barry with 9 Sparboe?</p> <p>10 A. We feel the grain-based pricing aligns 11 with our customer needs.</p> <p>12 Q. And why was that?</p> <p>13 A. It provides more stable, predictable 14 pricing.</p> <p>15 Q. Now, in your experience, is there a 16 correlation in egg prices and soybean and corn?</p> <p>17 A. In my opinion, there is a correlation 18 over long periods of time, but there are periods of 19 variation where they don't align.</p> <p>20 Q. In your opinion, when they do align, why 21 is that?</p> <p>22 A. I think it's like any market. A 23 producer has to be allowed to make a reasonable 24 rate of return to stay in business. When they 25 don't, you get differences in supply and demand and</p>	<p style="text-align: center;">45</p> <p>1 MR. HUTCHINSON: Well, I --</p> <p>2 MR. SVEEN: We're not going to have two 3 lawyers for one party ask questions here.</p> <p>4 MR. HUTCHINSON: Right. Why don't we go 5 off the record, and Matt and I can talk.</p> <p>6 MR. SVEEN: Well, I'd like to keep this 7 moving, if we can. If we take another break, you 8 can talk to him, and I suppose if it goes around 9 again, you can do some follow-up. How does that 10 sound?</p> <p>11 MR. HUTCHINSON: Well, I mean, it's up 12 to you. I have a couple of questions that I'd like 13 to ask the witness. I'm happy to just ask them or 14 I can talk to Matt. It's your choice. Whatever 15 you think will be more efficient.</p> <p>16 MR. SVEEN: Well, it was your choice not 17 to come here, so --</p> <p>18 MR. HUTCHINSON: Well, not really. I 19 wasn't involved in the scheduling, and I'm in 20 Virginia right now. I would have loved to be 21 there, but I unfortunately had another obligation 22 in this case. Why don't we just take a 30-second 23 break so I can confer with my colleague.</p> <p>24 MR. SVEEN: That's fine.</p> <p>25 MR. HUTCHINSON: Okay. Thank you.</p>

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<p style="text-align: center;">46</p> <p>1 MS. SCHWARTZ: Are there any other 2 defendants who intend to ask questions?</p> <p>3 MR. FONTECILLA: I think those are all 4 the --</p> <p>5 MR. SVEEN: Let's just do 30 seconds and 6 then we'll --</p> <p>7 THE VIDEOGRAPHER: We're going off the 8 record at 10:27 a.m.</p> <p>9 (Whereupon, a recess was taken from 10 10:27 a.m. to 10:31 a.m.)</p> <p>11 THE VIDEOGRAPHER: We are back on the 12 record at 10:31 a.m.</p> <p>13 BY MR. HARTUNG:</p> <p>14 Q. Mr. Stocker, I have just a couple of 15 more questions. Did anyone from Sparboe discuss 16 cost with you regarding animal welfare?</p> <p>17 A. Yes.</p> <p>18 Q. And did Cargill agree to pay more for 19 eggs from Sparboe because of animal welfare 20 requirements?</p> <p>21 A. At the Vincent facility, that is 22 correct, with this contract.</p> <p>23 Q. And why was that?</p> <p>24 A. To meet customer requirements.</p> <p>25 Q. Did Cargill feel as though it added</p>	<p style="text-align: center;">48</p> <p>1 that it may be referring to Sunny Fresh Foods as 2 well. And please correct me if you need to make 3 any distinctions between those entities. Okay?</p> <p>4 A. Okay.</p> <p>5 Q. Now, Cargill has been a UEA member, 6 correct?</p> <p>7 A. That is correct.</p> <p>8 Q. And could you explain what UEA is?</p> <p>9 A. UEA is a trade association underneath -- 10 organized under, for lack of a better term, the UEP 11 umbrella. It is to represent the further 12 processing part of the egg industry, so those folks 13 involved in the liquid side of the business.</p> <p>14 Q. And Cargill has been a UEA member since 15 how early? Do you recall?</p> <p>16 MR. FONTECILLA: Objection, foundation.</p> <p>17 A. I don't recall the specifics. As long 18 as I can recall as procurement manager in 2003. I 19 believe we've been a member since that -- at least 20 that long.</p> <p>21 BY MS. SCHWARTZ:</p> <p>22 Q. And Cargill has never been a UEP member, 23 correct?</p> <p>24 A. That is correct.</p> <p>25 Q. And with regard to UEA, have you served</p>
<p>value?</p> <p>A. Yes.</p> <p>MR. HARTUNG: No further questions.</p> <p>EXAMINATION BY COUNSEL FOR THE KANSAS PLAINTIFFS</p> <p>BY MS. SCHWARTZ:</p> <p>Q. Good morning, Mr. Stocker. My name is Rachel Schwartz, and I'm here on behalf of the plaintiffs in the Kansas litigation. Are you aware of the Kansas litigation?</p> <p>A. At a high level, yes.</p> <p>Q. Fair enough. This is a case that's currently pending in Kansas City, Kansas on behalf of a grocery wholesaler and a couple of locally owned grocery stores. Are you aware of that?</p> <p>A. Not specifically who they are, no.</p> <p>Q. Fair enough. I just have a couple of questions today. This testimony, along with being in the multidistrict litigation, is also being taken for the Kansas litigation and could be played in front of a jury in Kansas. Are you aware of that?</p> <p>A. I am now.</p> <p>Q. Fair enough. A couple of background questions with regard to Cargill, and if you don't mind, I will use the same language we used earlier,</p>	<p style="text-align: center;">47</p> <p>on the executive committee for UEA?</p> <p>A. Yes.</p> <p>Q. And for how many years did you serve on the executive committee for UEA?</p> <p>A. I'm not actually sure. Today I'm on the executive committee. It's been several years.</p> <p>Q. And do you recall raising any concerns about UEP's control of UEA?</p> <p>MR. FONTECILLA: Objection, vague.</p> <p>A. I don't recall.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. Let me show you what's previously been marked as Cargill 6.</p> <p>MR. FONTECILLA: Ms. Schwartz, has the witness signed the protective order?</p> <p>MS. SCHWARTZ: He has.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. And Cargill 6 is UE0234602. And it's a January 8th 2004 letter that appears to be written by you; is that correct?</p> <p>A. That is correct.</p> <p>Q. And sent to Ken Klippen?</p> <p>A. That is correct.</p> <p>Q. And who is Ken Klippen?</p> <p>A. At the time, Ken was the UEA</p>

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<p style="text-align: right;">50</p> <p>1 representative based in D.C. 2 Q. And have you had a chance to review this 3 document? 4 A. I just did read it, yes. 5 Q. Do you remember sending this to 6 Mr. Klippen? 7 A. Actually, no. 8 Q. Let's take a look at the fourth 9 paragraph here. And it starts off, "In addition, 10 it is clear that UEA does have some autonomy 11 issues. It became very clear at the last meeting 12 that UEA is clearly controlled by UEP. UEP has 13 grown into a very strong organization, and maybe it 14 makes sense for UEP to represent all of its 15 producers." 16 Do you see those sentences? 17 A. Yes, I do. 18 Q. Looking at that today, does that refresh 19 your recollection? 20 MR. FONTECILLA: Objection, vague. 21 A. Not really. 22 BY MS. SCHWARTZ: 23 Q. Do you remember any concerns you had in 24 the 2004 time period about UEP controlling UEA? 25 MR. FONTECILLA: Objection, vague, form.</p>	<p style="text-align: right;">52</p> <p>1 correct? 2 A. That is correct. 3 Q. From 1999 through the present, can you 4 estimate how many UEP meetings you would have 5 attended? 6 A. Probably started attending from 2003 7 forward. To the present, you said? 8 Q. Correct. 9 A. Probably attend on average two UEP 10 meetings a year in that time frame, so 11 approximately 20. 12 Q. Were there specific meetings you would 13 normally attend? 14 A. The meetings we usually tried to attend 15 were three. One was the meeting held at the -- in 16 Atlanta in January in conjunction with the 17 southeastern poultry show. There usually was a 18 midwest producers meeting held in Des Moines in 19 advance of the national meeting, which usually 20 occurs in the fall. Those are the three primary 21 meetings that, if available, I try to attend. 22 Q. And why did you believe it was important 23 to attend UEP meetings? 24 MR. FONTECILLA: Objection. 25 A. Primarily for networking with our</p>
<p style="text-align: right;">51</p> <p>1 A. No, not that I recall. 2 BY MS. SCHWARTZ: 3 Q. Did Cargill quit UEA at any time from 4 1999 to the present? 5 MR. FONTECILLA: Objection, form. 6 A. I don't know about '99, but 2003 and 7 forward when I was in charge of procurement, I'm 8 not aware of any periods where we dropped out of 9 UEA. 10 BY MS. SCHWARTZ: 11 Q. And sitting here today, this document 12 does not refresh your recollection as to any 13 concerns you had about UEP controlling UEA? 14 MR. FONTECILLA: Objection, form, calls 15 for speculation. 16 A. No, I do not recall. 17 BY MS. SCHWARTZ: 18 Q. Do you remember any conversations with 19 Mr. Klippen or others affiliated with UEP about 20 UEP's control over UEA? 21 MR. FONTECILLA: Objection, compound. 22 A. I don't remember any specific 23 conversations, no. 24 BY MS. SCHWARTZ: 25 Q. You personally attended UEP meetings,</p>	<p style="text-align: right;">53</p> <p>1 producers which would be at those meetings, 2 efficient use of time. And, secondarily, to sit in 3 meetings and listen. 4 BY MS. SCHWARTZ: 5 Q. And were there particular areas you were 6 there to listen to at these meetings? 7 MR. FONTECILLA: Objection, vague. 8 A. We generally sat in on as many meetings 9 as we could sit and listen in at. 10 BY MS. SCHWARTZ: 11 Q. And would you also attend committee 12 meetings? 13 A. Yes. 14 Q. And were there particular committees 15 whose meetings you tried to attend? 16 A. I tried to attend as many as the 17 scheduling would allow. 18 Q. Were there any in particular that were 19 the priorities for you to attend? 20 MR. FONTECILLA: Objection, form. 21 A. Is your question on committee meetings 22 specifically? 23 BY MS. SCHWARTZ: 24 Q. Correct. 25 A. There were more likely -- do you have a</p>

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<p style="text-align: center;">54</p> <p>1 list of the committee meetings specifically that 2 you're asking about?</p> <p>3 Q. Sure. Let me ask you just about a 4 couple specifically. The UEP Animal Welfare 5 Committee, would that be a committee meeting you 6 would attend on occasion?</p> <p>7 A. Yes. We would attend that meeting.</p> <p>8 Q. And what about the shell egg marketing 9 committee?</p> <p>10 A. Yes. We would attend that meeting.</p> <p>11 Q. And --</p> <p>12 MR. FONTECILLA: Objection to the last 13 question.</p> <p>14 BY MS. SCHWARTZ:</p> <p>15 Q. What about the board of directors 16 meetings?</p> <p>17 MR. FONTECILLA: Objection, form.</p> <p>18 A. Yes. We would attend that meeting as 19 well.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. And what about the UEP marketing 22 committee? Would that be another committee that 23 you would attend on occasion?</p> <p>24 MR. FONTECILLA: Objection to form.</p> <p>25 A. Yes. We would attend the marketing</p>	<p style="text-align: center;">56</p> <p>1 the membership does. 2 BY MS. SCHWARTZ:</p> <p>3 Q. And would you also receive minutes from 4 those meetings?</p> <p>5 MR. FONTECILLA: Objection.</p> <p>6 A. Those minutes are part of the packet 7 handed out at the meeting.</p> <p>8 BY MS. SCHWARTZ:</p> <p>9 Q. And what else might be included in a 10 packet that you'd receive for a meeting?</p> <p>11 A. There might be a bio on a guest speaker 12 as well as potentially, for example, in food safety 13 they might have a packet of new government 14 regulation detailing the regulations that are 15 coming down or what's being proposed.</p> <p>16 Q. Anything else, sitting here today, that 17 you recall specifically?</p> <p>18 MR. FONTECILLA: Objection, vague.</p> <p>19 A. No.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Would you personally have received the 22 United Voices newsletter?</p> <p>23 A. Yes.</p> <p>24 Q. And to the best of your recollection, 25 would you have started to receive that back in the</p>
<p style="text-align: center;">55</p> <p>1 committee meeting. 2 BY MS. SCHWARTZ:</p> <p>3 Q. And sitting here today, do you recall 4 specifically any other committee meetings you may 5 have attended?</p> <p>6 A. There is a government affairs meeting, 7 committee meeting, as well as a food safety 8 committee meeting that we try to attend as well.</p> <p>9 Q. And the testimony this morning had 10 focused on the 1999 through 2008 time period, if 11 you recall. The litigation in Kansas actually 12 continues through today, so let me ask just a few 13 questions about the 2008 to the present time 14 period.</p> <p>15 Do you still attend UEP meetings?</p> <p>16 A. Yes, I do.</p> <p>17 Q. From 2008 to the present, has your 18 attendance at those meetings changed relative to 19 the time prior to 2008?</p> <p>20 A. No. I still try to attend all the same 21 meetings today that I did before.</p> <p>22 Q. And as part of attending those meetings, 23 would you receive an agenda for those meetings?</p> <p>24 MR. FONTECILLA: Objection.</p> <p>25 A. Yes. We receive the same e-mails that</p>	<p style="text-align: center;">57</p> <p>1 2003 time period?</p> <p>2 MR. FONTECILLA: Objection, vague.</p> <p>3 A. Yes.</p> <p>4 BY MS. SCHWARTZ:</p> <p>5 Q. And do you still receive that today?</p> <p>6 A. Yes.</p> <p>7 Q. And specifically with regard to the UEP 8 meetings, I want to ask you just a couple of 9 questions about some of the meetings you've 10 attended over the years.</p> <p>11 And to the best of your recollection, do 12 you recall as a UEA member whether you -- 13 whether -- let me start over.</p> <p>14 Could UEA members raise motions in UEP 15 meetings?</p> <p>16 MR. FONTECILLA: Objection, foundation, 17 calls for speculation, vague as to the time period.</p> <p>18 MR. SVEEN: Go ahead.</p> <p>19 A. No. We were just there to listen.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Do you ever recall UEA -- motions 22 suggested by UEA that were raised at UEP meetings?</p> <p>23 MR. FONTECILLA: Objection, vague, calls 24 for speculation.</p> <p>25 A. Could you repeat the question, please?</p>

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<p style="text-align: center;">58</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. Sure. It may be easier just to pull it 3 out.</p> <p>4 (Stocker Exhibit 2 was marked for 5 identification.)</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. Let me show you what's being marked as 8 Exhibit 2. And these are UEP Animal Welfare 9 Committee minutes from October 9th 2002. Do you 10 see that at the top?</p> <p>11 MR. FONTECILLA: Objection.</p> <p>12 A. I do see that.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And at the bottom, you'll see that it's 15 Bates numbered UE0153388. And if I can have you 16 look at the section on the first page that's 17 entitled "UEP UEA Members Staff and Guests." Do 18 you see that paragraph?</p> <p>19 A. Yes, I do.</p> <p>20 Q. If you go down to the fifth line from 21 the bottom of that paragraph, do you see your name?</p> <p>22 A. Yes, I do.</p> <p>23 Q. And if you look two over, do you see the 24 name Terry Profit?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: center;">60</p> <p>1 MR. FONTECILLA: Objection, foundation.</p> <p>2 A. It may have, but very rare.</p> <p>3 BY MS. SCHWARTZ:</p> <p>4 Q. And if you look at the top of that same 5 page --</p> <p>6 A. Page 2?</p> <p>7 Q. Yes.</p> <p>8 A. Okay.</p> <p>9 Q. You'll see that there's a heading 10 entitled "Requirement for Certified Status." Do 11 you see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And do you know -- that first sentence 14 said, "Kraus reported that previous motions 15 required that the board reconfirm the commitment of 16 100 percent of their production facilities." Do 17 you see that sentence?</p> <p>18 A. Yes, I do.</p> <p>19 Q. And do you have an understanding of what 20 has been called in this litigation the 100 percent 21 rule?</p> <p>22 MR. FONTECILLA: Objection, foundation.</p> <p>23 MR. SVEEN: I'm just going to object to 24 the extent you're asking -- what he knows about 25 this litigation has come from conversations with</p>
<p style="text-align: center;">59</p> <p>1 Q. And is that another employee at Cargill?</p> <p>2 A. Yes.</p> <p>3 Q. And why would both of you have attended 4 the same UEP meeting?</p> <p>5 MR. FONTECILLA: Objection, calls for 6 speculation.</p> <p>7 A. At times, there were concurrent 8 committee meetings occurring, and so we often found 9 it was good to have two of us there so we could 10 attend two simultaneous meetings.</p> <p>11 BY MS. SCHWARTZ:</p> <p>12 Q. And if you turn to the second page of 13 this document, you'll see at the bottom of that 14 page that there is a section entitled "UEA Further 15 Processor Motion." Do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And was that the -- was Cargill a UEA 18 further processor member?</p> <p>19 MR. FONTECILLA: Objection.</p> <p>20 A. I believe so. Again, this is prior to 21 2003, so -- but I believe so.</p> <p>22 BY MS. SCHWARTZ:</p> <p>23 Q. Does this refresh your recollection that 24 on occasion UEP meetings may involve a discussion 25 of a motion from the UEA members?</p>	<p style="text-align: center;">61</p> <p>1 me. So I may have mentioned that, but if you could 2 explain it to him, I'd appreciate that.</p> <p>3 MS. SCHWARTZ: Fair enough.</p> <p>4 BY MS. SCHWARTZ:</p> <p>5 Q. I'm not trying to ask you anything about 6 your conversations with your attorney.</p> <p>7 Are you aware of, outside of the 8 discussions with your attorney, whether from 9 attendance at meetings or otherwise, are you aware 10 of what is sometimes called the 100 percent rule?</p> <p>11 MR. FONTECILLA: Objection, vague.</p> <p>12 A. Yes, I am.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And what is your understanding of that?</p> <p>15 A. It is a rule to be certified that 16 required all of a producer's farms to meet the 17 animal husbandry requirements across all farms to 18 be certified.</p> <p>19 Q. And to your understanding, the 100 20 percent rule -- and, actually, strike that. We'll 21 come back to that.</p> <p>22 Do you recall whether Cargill was ever 23 required to fill out a Capper-Volstead 24 certification --</p> <p>25 MR. FONTECILLA: Objection.</p>

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<p style="text-align: center;">62</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. -- to attend UEP meetings?</p> <p>3 MR. FONTECILLA: Objection, foundation,</p> <p>4 calls for speculation, calls for a legal</p> <p>5 conclusion.</p> <p>6 A. I don't recall ever filling out a</p> <p>7 Capper-Volstead form.</p> <p>8 (Stocker Exhibit 3 was marked for</p> <p>9 identification.)</p> <p>10 BY MS. SCHWARTZ:</p> <p>11 Q. I'm handing you what has been marked as</p> <p>12 Exhibit Number 3. And Exhibit 3 is Bates labeled</p> <p>13 UE0227225. And at the top it says it's a UEP</p> <p>14 annual membership meeting. Do you see that at the</p> <p>15 top of this document?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And if you look again down to the staffs</p> <p>18 and guest section, do you see that on the first</p> <p>19 page?</p> <p>20 A. Yes, I do.</p> <p>21 Q. And if you look about four lines from</p> <p>22 the bottom of that to the right-hand side, do you</p> <p>23 see that you are listed as an attendee of this</p> <p>24 meeting?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: center;">64</p> <p>1 A. No. We weren't UEP members.</p> <p>2 BY MS. SCHWARTZ:</p> <p>3 Q. And could Cargill, back in the 2002 time</p> <p>4 period, have certified that more than 50 percent of</p> <p>5 all eggs handled by Cargill were produced on farms</p> <p>6 owned or operated by Cargill?</p> <p>7 MR. FONTECILLA: Objection, foundation,</p> <p>8 calls for speculation. The witness has testified</p> <p>9 that his role as the procurement manager started in</p> <p>10 the 2002 time period.</p> <p>11 A. No. We didn't own egg-laying hens.</p> <p>12 BY MS. SCHWARTZ:</p> <p>13 Q. And that would be true today as well?</p> <p>14 A. That is correct.</p> <p>15 Q. Now, we talked for a moment about the</p> <p>16 100 percent rule. Was Cargill opposed to the</p> <p>17 100 percent rule?</p> <p>18 MR. FONTECILLA: Objection.</p> <p>19 A. Yes.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. And why was that?</p> <p>22 MR. SVEEN: I'm just going to object to</p> <p>23 foundation. To the extent you understand why that</p> <p>24 position was, you can tell her.</p> <p>25 A. The 100 percent rule, we thought</p>
<p style="text-align: center;">63</p> <p>1 Q. Other than looking at this document, do</p> <p>2 you recall attending specifically the October 10th</p> <p>3 2002 annual meeting?</p> <p>4 A. Yes. I remember being in Savannah.</p> <p>5 Q. Fair enough. It's a great town. Hard</p> <p>6 to forget.</p> <p>7 If you turn to the third page of this</p> <p>8 document, do you see that it's entitled</p> <p>9 "Capper-Volstead Certification"? Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And let me give you a chance to read</p> <p>12 that whole page.</p> <p>13 A. (Reading).</p> <p>14 Q. And sitting here today, did you ever</p> <p>15 complete a form like this for UEP?</p> <p>16 MR. FONTECILLA: I'm going to object to</p> <p>17 foundation to the extent that the witness hasn't</p> <p>18 testified that he's ever seen this document.</p> <p>19 A. No. We wouldn't have signed this.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. To the best of your recollection, you</p> <p>22 don't know of anybody else at Cargill who may have</p> <p>23 filled out a form like this?</p> <p>24 MR. FONTECILLA: Objection, calls for</p> <p>25 speculation.</p>	<p style="text-align: center;">65</p> <p>1 customers should have the right to choose.</p> <p>2 BY MS. SCHWARTZ:</p> <p>3 Q. And how did the 100 percent rule limit a</p> <p>4 customer's right to choose?</p> <p>5 MR. FONTECILLA: Objection, calls for</p> <p>6 speculation.</p> <p>7 A. To the extent that a producer had to,</p> <p>8 you know -- implied in the name is a hundred</p> <p>9 percent. So all your farms or none of your farms.</p> <p>10 So to the degree it impacted the customer's ability</p> <p>11 to buy from an individual producer, that was the</p> <p>12 extent of the impact.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And in 2003 when you would have taken on</p> <p>15 responsibility for procurement, did you have</p> <p>16 customers at that time who were not asking for</p> <p>17 animal welfare regulations for the products they</p> <p>18 purchased from Cargill?</p> <p>19 MR. FONTECILLA: Objection, vague,</p> <p>20 compound.</p> <p>21 A. All customers would have animal welfare</p> <p>22 requirements. If the question is more specific to</p> <p>23 a density, could you re-phrase the question?</p> <p>24 BY MS. SCHWARTZ:</p> <p>25 Q. I'd be happy to. In 2003, did you have</p>

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<p style="text-align: right;">66</p> <p>1 customers who were not demanding specific cage 2 densities for the products they purchased from 3 Cargill?</p> <p>4 MR. FONTECILLA: Objection, vague.</p> <p>5 A. That is correct.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. And who would some of those customers 8 have been in the 2003 time period?</p> <p>9 MR. FONTECILLA: Same objection.</p> <p>10 A. Are you asking customers that did not 11 request 67 inch or standard egg in 2003?</p> <p>12 BY MS. SCHWARTZ:</p> <p>13 Q. Correct.</p> <p>14 A. Is that the specific question?</p> <p>15 In 2003, many customers were not 16 requesting 67 inches at the time.</p> <p>17 Q. Did you have customers who were not 18 requiring any minimum cage space in the 2003 time 19 period?</p> <p>20 A. Yes.</p> <p>21 Q. And who would some of those customers 22 have been back in the 2003 time period?</p> <p>23 A. It would probably be easier to say which 24 customers had requirements.</p> <p>25 Q. Why don't we try that, then. In the</p>	<p style="text-align: right;">68</p> <p>1 BY MS. SCHWARTZ: 2 Q. And from the time period of 2002 through 3 2008, McDonald's requirements of the 72 square 4 inches was greater than what was required under the 5 UEP Certified guidelines, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. And during that time period, the UEP's 8 highest number was 67 square inches; is that 9 correct?</p> <p>10 MR. FONTECILLA: Objection, foundation.</p> <p>11 MR. SVEEN: I join. To the extent you 12 know, you can answer.</p> <p>13 A. I actually don't think they were at 67 14 inches by 2008. There was a phase-in. So even 15 UEP's may not have been at 67 in 2008.</p> <p>16 BY MS. SCHWARTZ:</p> <p>17 Q. Do you remember attending any UEP 18 meetings where there was a recommendation for 19 producers to reduce their flock size?</p> <p>20 MR. FONTECILLA: Objection, foundation.</p> <p>21 A. To reduce their flock -- just reduce 22 their flock size, no, I don't.</p> <p>23 (Stocker Exhibit 4 was marked for 24 identification.)</p> <p>25</p>
<p style="text-align: right;">67</p> <p>1 2003 time period, McDonald's was one of Cargill's 2 customers, correct?</p> <p>3 A. That is correct.</p> <p>4 MR. FONTECILLA: Objection.</p> <p>5 BY MS. SCHWARTZ:</p> <p>6 Q. And in the 2003 time period, they had a 7 requirement for a minimum cage space for the 8 products they purchased from you?</p> <p>9 A. McDonald's had their own animal 10 husbandry standards, correct.</p> <p>11 Q. And sitting here today, do you recall 12 what those cage space requirements were for 13 McDonald's?</p> <p>14 A. Yes.</p> <p>15 Q. And what were they?</p> <p>16 A. McDonald's standard was 72 square inches 17 minimum.</p> <p>18 Q. And do you recall approximately when 19 that minimum began?</p> <p>20 A. Approximately 2002.</p> <p>21 Q. And is that still the case today?</p> <p>22 MR. FONTECILLA: Objection, vague.</p> <p>23 A. Today McDonald's still has a 72-inch 24 minimum standard.</p> <p>25</p>	<p style="text-align: right;">69</p> <p>1 BY MS. SCHWARTZ: 2 Q. I'm handing you what's being marked as 3 Exhibit 4. This was in the Kansas litigation 4 previously marked as Exhibit 215. And this is 5 NL004133. And on the front page, it says it's a 6 shell egg marketing committee minutes. Do you see 7 that on the front page?</p> <p>8 MR. FONTECILLA: Objection.</p> <p>9 A. Yes, I do.</p> <p>10 BY MS. SCHWARTZ:</p> <p>11 Q. And this is for October 20th of 2004. 12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And if you look down under -- on the 15 first page to the section that says "Other 16 Attendees" and you look four lines from the bottom 17 of that, do you see that you are listed as an 18 attendee?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And if you turn to the second page of 21 this document, do you see the top sentence -- let 22 me give you a chance to review that document if you 23 haven't had the chance. I've got a couple of 24 questions just about that second page.</p> <p>25 A. (Reading).</p>

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<p style="text-align: center;">70</p> <p>1 Q. And the first sentence at the top of the 2 second page says, "Gregory presented further 3 reports and pleaded with the attendees to take care 4 of business by reducing their flock age, stop 5 backfilling and the use of old, depreciated 6 houses." Do you see that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Do you recall attending this meeting in 9 New Orleans?</p> <p>10 A. Yes. I remember being in New Orleans.</p> <p>11 Q. And does this refresh your recollection 12 as to a discussion at this meeting about reducing 13 flock age, backfilling and the use of old, 14 depreciated houses?</p> <p>15 MR. FONTECILLA: Objection, foundation. 16 The witness testified that he's never seen this 17 document.</p> <p>18 A. I don't recall the specific discussion.</p> <p>19 BY MS. SCHWARTZ:</p> <p>20 Q. Do you have an understanding today of 21 what Mr. Gregory meant by "take care of business"?</p> <p>22 MR. FONTECILLA: Objection, calls for 23 speculation.</p> <p>24 MR. SVEEN: Objection, foundation. You 25 can answer if you know.</p>	<p style="text-align: center;">72</p> <p>1 flock size by 8 to 10 million hens? 2 MR. FONTECILLA: Same objection, and 3 form.</p> <p>4 A. I don't recall the specific discussions. 5 But I do recall this type of instance happening.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. Do you recall that happening at more 8 than just this meeting?</p> <p>9 MR. FONTECILLA: Objection, vague.</p> <p>10 A. I don't recall any specific meetings.</p> <p>11 BY MS. SCHWARTZ:</p> <p>12 Q. If you look at the paragraph under these 13 recommendations, you'll see that there's a 14 reference to Irving Isaacson.</p> <p>15 A. Yes.</p> <p>16 Q. And do you know who Irving Isaacson is?</p> <p>17 A. Yes.</p> <p>18 Q. And who is he?</p> <p>19 A. He was UEP's legal counsel.</p> <p>20 Q. And did he also provide legal advice to 21 USEA?</p> <p>22 MR. FONTECILLA: Objection, vague, calls 23 for speculation.</p> <p>24 A. I believe -- I believe so at the time. 25 Back at this time. Back in 2003, '04, '05-type</p>
<p style="text-align: center;">71</p> <p>1 A. I would have to read the document a 2 little further. I'm not sure if it's in the 3 context of animal welfare or some other objective.</p> <p>4 BY MS. SCHWARTZ:</p> <p>5 Q. If you go down, you'll see there's a 6 heading there called "Area Meeting 7 Recommendations." Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And does that refresh your recollection 10 that there was a discussion about developing a 11 program to reduce the flock by 5 percent with a 12 goal of reducing the nation's flock size by 8 to 10 13 million hens?</p> <p>14 MR. FONTECILLA: Objection, foundation, 15 calls for speculation, mischaracterizes the 16 document.</p> <p>17 A. I apologize. Could you repeat that 18 question.</p> <p>19 MS. SCHWARTZ: Sure.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Does this section entitled the "Area 22 Meeting Recommendations" refresh your recollection 23 that on occasion, or on at least one occasion, a 24 UEP meeting discussed a program to reduce the flock 25 by 5 percent with a goal of reducing the nation's</p>	<p style="text-align: center;">73</p> <p>1 time period.</p> <p>2 BY MS. SCHWARTZ:</p> <p>3 Q. And did Cargill participate in any USEM 4 meetings?</p> <p>5 MR. FONTECILLA: Objection.</p> <p>6 A. No.</p> <p>7 BY MS. SCHWARTZ:</p> <p>8 Q. Fair to say you wouldn't know whether 9 Mr. Isaacson had provided legal advice to USEM?</p> <p>10 MR. FONTECILLA: Objection.</p> <p>11 A. I would have no idea.</p> <p>12 BY MS. SCHWARTZ:</p> <p>13 Q. And if you look down that same page that 14 we were looking at, it appears that there was a 15 motion for, quote, "It was moved by Wicker and 16 seconded by Shrimp to recommend to the board a plan 17 for hens currently scheduled for disposal between 18 December 1st 2004 and July 1st 2005 be disposed of 19 four weeks early or reduce your flock size by 5 20 percent." Do you see that?</p> <p>21 A. Yes, I do.</p> <p>22 Q. And it appears that that motion carried?</p> <p>23 MR. FONTECILLA: Objection.</p> <p>24 A. Yes. That's what it appears.</p>

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<p style="text-align: center;">74</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. And you had spoken earlier this morning 3 about the impact on price if you reduced -- 4 actually, let me start over.</p> <p>5 You had spoken this morning about the 6 impact on cost if you reduced the number of hens in 7 a cage. Do you recall those questions this 8 morning?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And it was your testimony that if there 11 were fewer hens in a cage, that may have an impact 12 on cost?</p> <p>13 A. That is correct.</p> <p>14 Q. And would you also anticipate an impact 15 on cost by a producer having fewer hens generally?</p> <p>16 MR. FONTECILLA: Objection, vague, calls 17 for speculation.</p> <p>18 A. One producer by themselves, no. Could 19 you rephrase the question?</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Well, let me ask, why would -- it's your 22 expectation that if there were fewer hens in a 23 cage, that would lead to higher prices -- or a 24 higher cost?</p> <p>25 MR. FONTECILLA: Objection.</p>	<p style="text-align: center;">76</p> <p>1 start over.</p> <p>2 Do you recall whether you or others at 3 Cargill attended UEP's economic summit?</p> <p>4 MR. SVEEN: Objection, vague.</p> <p>5 MR. FONTECILLA: Objection.</p> <p>6 A. Could you tell me where it was at or 7 what time frame, please?</p> <p>8 BY MS. SCHWARTZ:</p> <p>9 Q. It would have been in the 2004 time 10 period. Do you recall attending what was called 11 the economic summit?</p> <p>12 A. Where was it at?</p> <p>13 Q. The location --</p> <p>14 A. The name just -- I apologize. The name 15 doesn't ring a bell to me, the economic summit.</p> <p>16 Q. And that's fine. If to the best of your 17 recollection that's not a term that sounds familiar 18 to you, that's --</p> <p>19 A. No.</p> <p>20 Q. Okay. Do you recall attending a 21 producer meeting in Minneapolis in 2005?</p> <p>22 A. Yes.</p> <p>23 MR. FONTECILLA: Objection.</p> <p>24 BY MS. SCHWARTZ:</p> <p>25 Q. And what do you recall about that</p>
<p style="text-align: center;">75</p> <p>1 MR. SVEEN: Objection to the extent it 2 misstates his testimony. Explain your answer.</p> <p>3 A. That would increase the cost at that 4 specific facility. That is correct.</p> <p>5 BY MS. SCHWARTZ:</p> <p>6 Q. And if you had that same facility, but 7 fewer overall hens at that facility, would you 8 expect cost to go up as well?</p> <p>9 A. It would depend on supply and demand. 10 So in other words, you might have fewer hens there, 11 but if you built to add hens somewhere else from an 12 economic standpoint, supply and demand is still 13 balanced.</p> <p>14 Q. But without the additional building, 15 would it have been your expectation that that could 16 have led to higher costs?</p> <p>17 MR. FONTECILLA: Objection, 18 mischaracterizes the witness' testimony.</p> <p>19 A. Yes. If demand is the same and supply 20 is down, prices go up.</p> <p>21 BY MS. SCHWARTZ:</p> <p>22 Q. And you can put that document away.</p> <p>23 A. Thank you.</p> <p>24 Q. Do you recall whether you or others from 25 Cargill attended the economic summit in -- let me</p>	<p style="text-align: center;">77</p> <p>1 meeting?</p> <p>2 A. I recall it was down by the airport 3 somewhere.</p> <p>4 Q. And do you recall why you had attended 5 that meeting?</p> <p>6 A. At a high level, I think just to talk 7 about open issues with UEP and suppliers.</p> <p>8 Q. Let me show you what's previously been 9 marked as Cargill 2. This was marked at the last 10 Cargill deposition as Exhibit Number 2 with the 11 Bates number NL00217575 I believe there at the 12 bottom. And do you see at the top it's entitled 13 "Producer Meeting in Minneapolis, December 6th 14 2005"?</p> <p>15 A. Yes, I do.</p> <p>16 MR. FONTECILLA: And I'm just going to 17 make a clarification objection on the record to the 18 extent you're characterizing the deposition of 19 Mr. Terry Profit as a deposition on behalf of the 20 company Cargill.</p> <p>21 BY MS. SCHWARTZ:</p> <p>22 Q. And is this the meeting that you had 23 remembered attending?</p> <p>24 A. I believe so, if it was down by the 25 airport.</p>

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<p style="text-align: center;">78</p> <p>1 Q. Fair enough. And you see on the 2 front -- first line of this, it says "Individuals 3 Present." It appears that both you and Mr. Profitt 4 attended this meeting?</p> <p>5 A. That is correct.</p> <p>6 Q. And to the best of your recollection, 7 was this a UEP committee meeting?</p> <p>8 A. I do not believe this was a UEP 9 committee meeting.</p> <p>10 Q. Do you know why this meeting was held? 11 MR. FONTECILLA: Objection, calls for speculation.</p> <p>12 A. I think it was held to address concerns 13 of midwest producers with some aspects of UEP and 14 their programs.</p> <p>15 BY MS. SCHWARTZ:</p> <p>16 Q. And why did you attend this meeting?</p> <p>17 A. Similar to why we attend UEP meetings, 18 to listen and learn, understand issues important to 19 our industry.</p> <p>20 Q. It's fair to say, however, that Cargill is not a producer, correct?</p> <p>21 MR. FONTECILLA: Objection.</p> <p>22 A. That is correct.</p>	<p style="text-align: center;">80</p> <p>1 impact the other farms.</p> <p>2 Q. And did the 100 percent rule impact 3 Cargill?</p> <p>4 MR. FONTECILLA: Objection, vague.</p> <p>5 A. Not that I can recall.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. Did it limit -- well, let me ask, if 8 Cargill had a customer that wanted UEP Certified 9 eggs, that -- Cargill had a limited number of 10 producers who may be UEP certified, correct?</p> <p>11 MR. FONTECILLA: Objection, form, vague 12 and improper hypothetical.</p> <p>13 A. I'm sorry. Can you repeat the question?</p> <p>14 BY MS. SCHWARTZ:</p> <p>15 Q. And let me rephrase. If Cargill 16 wanted -- if Cargill's customers wanted UEP 17 Certified eggs, Cargill would need to acquire those 18 from producers who were UEP Certified producers, 19 correct?</p> <p>20 MR. FONTECILLA: Objection, vague, form, 21 calls for speculation.</p> <p>22 MR. SVEEN: Potentially we could 23 shortcut this. Did Cargill have any customers who 24 required UEP Certified eggs?</p> <p>25 THE WITNESS: I recall one customer.</p>
<p style="text-align: center;">79</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. And do you see that there's a heading 3 there entitled "Issues and Concerns Expressed by 4 Producers"? Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And do you remember that an issue or 7 concern expressed by producers was, quote, the 8 100 percent rule of the UEP Certified animal 9 welfare program?</p> <p>10 MR. FONTECILLA: Objection, vague.</p> <p>11 A. Yes, I do recall there was an issue with 12 the 100 percent rule.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And do you recall what the issue with 15 the 100 percent rule was?</p> <p>16 A. The primary issue was the right to 17 choose by producers and/or consumers.</p> <p>18 Q. And can you explain what you mean by 19 that?</p> <p>20 A. So, for example, if -- let's say I had a 21 customer that wanted UEP Certified product. My 22 only ability to get that product would be to go a 23 producer that was UEP certified, which implies they 24 have to follow the 100 percent rule. So if I 25 needed eggs from one farm, it could potentially</p>	<p style="text-align: center;">81</p> <p>1 Actually, no, I take that back. They did not 2 require UEP Certified. They were like the other 3 customers and required an animal husbandry 4 standard. But we never bought or marketed 5 UEP-certified product.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. And which customer was that?</p> <p>8 A. We had many customers that asked for 9 eggs produced under an animal husbandry standard 10 that had among its requirements 67 square inches.</p> <p>11 Q. Was Cargill asking for the UEP Certified 12 program?</p> <p>13 A. We did not.</p> <p>14 Q. And if you look under this same exhibit, 15 if you look down to 13, do you have an 16 understanding of why the UEP Certified program 17 might be a market restriction?</p> <p>18 MR. FONTECILLA: Objection.</p> <p>19 A. I think it's the same discussion, the 20 100 percent rule, to whatever degree that could 21 impact a producer or a customer's right.</p> <p>22 BY MS. SCHWARTZ:</p> <p>23 Q. Today are all of Cargill's customers 24 demanding that Cargill's products be produced in 25 compliance with the UEP Certified program?</p>

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<p style="text-align: center;">82</p> <p>1 A. No. Today we have no customers that we 2 do UEP Certified on. We have our own programs.</p> <p>3 Q. And what are the other animal welfare 4 programs that your customers may require? And let 5 me ask -- we've talked about McDonald's.</p> <p>6 A. Mm-hmm.</p> <p>7 Q. Are there other animal welfare programs 8 under which Cargill sells products to its 9 customers?</p> <p>10 MR. SVEEN: Objection to the extent it 11 misstates his testimony on program. Go ahead.</p> <p>12 A. We have customers that would like the 13 eggs we buy to be produced under an animal 14 husbandry standard that is very similar to the UEP 15 program. But we do not have any customers that 16 require certification of those eggs. We do our own 17 internal audits.</p> <p>18 BY MS. SCHWARTZ:</p> <p>19 Q. And what are the other animal husbandry 20 standards or requirements that your customers have 21 requested?</p> <p>22 A. The main areas are in the area of cage 23 space, which we've talked about, feed access, water 24 access, bird handling procedures, environment. 25 Different broad buckets of issues that are</p>	<p style="text-align: center;">84</p> <p>1 appears Mr. Profit attended this meeting as well?</p> <p>2 A. Yes.</p> <p>3 Q. And if you turn to the second page of 4 this document under the section entitled "Open 5 Discussion" -- and I'll give you a chance to read 6 through that section.</p> <p>7 A. (Reading).</p> <p>8 Q. Other than what you see on these 9 minutes, do you have a recollection of any 10 discussion at this meeting regarding the hundred 11 percent rule?</p> <p>12 A. No. I don't recall any specific 13 discussion.</p> <p>14 Q. Did Cargill ever voice its opposition or 15 concern with the 100 percent rule to UEP?</p> <p>16 MR. FONTECILLA: Objection.</p> <p>17 A. Yes. We would have talked with UEP 18 leadership about it outside of these meetings.</p> <p>19 BY MS. SCHWARTZ:</p> <p>20 Q. And do you recall with whom you would 21 have spoken?</p> <p>22 A. Most likely would have been directly 23 with Gene Gregory.</p> <p>24 Q. And do you recall whether that was a 25 single conversation with Mr. Gregory?</p>
<p style="text-align: center;">83</p> <p>1 monitored and audited.</p> <p>2 Q. Do you recall attending the UEP board of 3 directors meeting in Atlanta, Georgia, in 2006?</p> <p>4 A. Was that in January of 2006?</p> <p>5 Q. It was.</p> <p>6 A. I don't recall that specific meeting 7 because we meet -- they have a meeting in Atlanta 8 every year. But I likely would have been at that 9 meeting.</p> <p>10 Q. Let me mark as Exhibit Number 5 -- 11 (Stocker Exhibit 5 was marked for 12 identification.)</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And Exhibit Number 5 has Bates number 15 NL000972 at the bottom. And this appear to be the 16 minutes from the UEP board of directors meeting 17 from January 24th of 2006. Do you see that at the 18 top?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And if you go down to the members and 21 guests section, if you look four lines from the 22 bottom of that, it appears that you attended this 23 meeting?</p> <p>24 A. Yes.</p> <p>25 Q. And if you go three lines above that, it</p>	<p style="text-align: center;">85</p> <p>1 A. That -- we likely would have had that 2 conversation in varying lengths a couple different 3 times.</p> <p>4 Q. And would the concerns you have raised 5 with Mr. Gregory been consistent with what you've 6 testified to this morning?</p> <p>7 A. Yes.</p> <p>8 Q. Do you recall specifically any 9 additional concerns regarding the hundred percent 10 rule that you discussed with Mr. Gregory?</p> <p>11 A. I don't recall anything specifically, 12 no.</p> <p>13 Q. Do you need to take a break? I'm happy 14 to --</p> <p>15 A. I'm fine.</p> <p>16 MR. SVEEN: He doesn't want to look at 17 any more minutes from meeting he doesn't remember.</p> <p>18 MS. SCHWARTZ: They are a riveting read. 19 I will give you that.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Let me have you take back out what was 22 marked this morning as Exhibit 1. And let me have 23 you turn to page 19 of this document. And that 24 document appears to be an Exhibit D, McDonald's 25 animal welfare guidelines. Do you see that?</p>

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<p style="text-align: right;">86</p> <p>1 A. Yes, I do. 2 Q. And are you familiar with McDonald's 3 animal welfare guidelines? 4 A. Yes. 5 Q. And this document which we discussed 6 earlier is from 2002, correct? 7 A. That is correct. 8 Q. To your knowledge, have the McDonald's 9 animal welfare guidelines changed since the 2002 10 time period? 11 A. I believe there have been some 12 modifications to their program over the years. 13 Q. Sitting here today, do you remember 14 specifically what those modifications may have 15 been? 16 A. I don't remember -- no. I don't 17 remember the specifics. But I know, like anything, 18 we've evolved them a little bit over time. 19 Q. And if you'll keep that document out in 20 front of you, I'm going to hand you another 21 document which I'm marking as Exhibit Number 6. 22 (Stocker Exhibit 6 was marked for 23 identification.) 24 BY MS. SCHWARTZ: 25 Q. And I apologize. I promise we're</p>	<p style="text-align: right;">88</p> <p>1 over time as well, correct? 2 MR. FONTECILLA: Objection to the extent 3 you're talking about the UEP Certified program, and 4 it mischaracterizes the witness' testimony. And 5 foundation. 6 MR. SVEEN: To the extent you know about 7 the -- 8 A. UEP's animal husbandry standards within 9 their program did change over time. 10 BY MS. SCHWARTZ: 11 Q. And if you look down on Exhibit 6, which 12 are those minutes that you've got in front of you, 13 I'm going to be focused on the section that says 14 "Audit Subcommittee Report." Do you see that 15 section? 16 A. Yes, I do. 17 Q. And I'll give you a chance just to read 18 through that section. 19 A. (Reading) Okay. 20 Q. And if you turn to -- if you look at 21 number 2 under that section, it says -- well, let 22 me ask a more basic question. Did you understand 23 that in the 2007 time period that UEP was making 24 changes to its audit guidelines for 2007? 25 MR. FONTECILLA: Objection, foundation,</p>
<p style="text-align: right;">87</p> <p>1 getting to the end of the meeting minutes. What 2 you've got in front of you is entitled "UEP 3 Producer Committee for Animal Welfare," January 4 23rd of 2007. Do you see that at the top? 5 A. Yes, I do. 6 Q. And that appears to be another Atlanta 7 meeting in January; fair to say? 8 A. That is correct. 9 Q. And if you again look under the 10 attendees for that meeting and you look at the 11 third line from the bottom of that list, do you see 12 that you attended this meeting? 13 A. Yes. 14 Q. And two lines above that, it appears 15 Mr. Profit attended that meeting as well? 16 A. That is correct. 17 Q. Great. And if you could pull Exhibit 1, 18 that Exhibit D, and have that in front of you at 19 the same time, I just wanted to ask you a couple of 20 questions. 21 You had mentioned earlier that the 22 McDonald's animal welfare program evolved over 23 time, correct? 24 A. I believe so, yes. 25 Q. And the UEP Certified program evolved</p>	<p style="text-align: right;">89</p> <p>1 vague. 2 A. I recall it's changed over times, and 3 this seems accurate. 4 BY MS. SCHWARTZ: 5 Q. And if you look at number 2, it appears 6 that there was a change in the ammonia standards 7 from 50 to 25. Do you see that? 8 MR. FONTECILLA: Objection, vague. 9 A. Yes, I do see that. 10 BY MS. SCHWARTZ: 11 Q. And if you turn to Exhibit 1 and if you 12 turn to page 20 and if you -- do you see the 13 section entitled "Air Quality and Temperature 14 Control." Do you see that? 15 A. Yes, I do. 16 Q. And if you look at number 3, it appears 17 that in 2002 McDonald's was requiring "ammonia 18 concentration to which the birds are exposed should 19 ideally be less than 10 ppm and should not exceed 20 25 ppm except for temporary excesses." Do you see 21 that? 22 MR. HARTUNG: Objection, speculation. 23 A. Yes, I see that. 24 BY MS. SCHWARTZ: 25 Q. And to the best of your knowledge</p>

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<p style="text-align: center;">90</p> <p>1 sitting here today, was that McDonald's requirement 2 back in the 2002 time period?</p> <p>3 MR. HARTUNG: Objection.</p> <p>4 MR. FONTECILLA: Objection.</p> <p>5 A. Yes, this requirement and this document 6 from 2002 was McDonald's requirement back then.</p> <p>7 BY MS. SCHWARTZ:</p> <p>8 Q. And Cargill would have required 9 producers producing McDonald's products to meet 10 these requirements, correct?</p> <p>11 MR. FONTECILLA: Objection, vague, 12 characterizes the witness' testimony.</p> <p>13 A. The standards in the contract is what we 14 expected.</p> <p>15 BY MS. SCHWARTZ:</p> <p>16 Q. And more than expected; it was a 17 requirement, correct?</p> <p>18 MR. FONTECILLA: Same objection.</p> <p>19 A. Yes, it was a requirement of the 20 contract.</p> <p>21 BY MS. SCHWARTZ:</p> <p>22 Q. And so in the 2002 time period, it 23 appears that -- let me take a step back. 24 In 2002, McDonald's allowed a lower 25 concentration for ammonia than what was allowed by</p>	<p style="text-align: center;">92</p> <p>1 MR. SVEEN: Objection, foundation. 2 MR. FONTECILLA: Objection, vague. 3 MR. SVEEN: If you know --</p> <p>4 A. It was a requirement determined by their 5 scientific committee.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. But sitting here today, you don't have 8 any specific knowledge as to that number?</p> <p>9 MR. FONTECILLA: Same objection.</p> <p>10 A. I was not on the scientific committee.</p> <p>11 BY MS. SCHWARTZ:</p> <p>12 Q. If you turn on Exhibit 1, the supply 13 agreement, if you turn back the page before --</p> <p>14 A. Page 19?</p> <p>15 Q. Yes.</p> <p>16 MR. SVEEN: Counsel, is your point that 17 McDonald's requirements in 2002 were more stringent 18 than the UEP requirements at that point? I mean, 19 can we just ask that question rather than go --</p> <p>20 MS. SCHWARTZ: I'm happy to ask that 21 question.</p> <p>22 BY MS. SCHWARTZ:</p> <p>23 Q. Is it fair to say that in 2002 --</p> <p>24 MR. SVEEN: There are components of 25 the --</p>
<p style="text-align: center;">91</p> <p>1 the UEP animal husbandry guidelines?</p> <p>2 MR. FONTECILLA: Objection, foundation, 3 calls for speculation.</p> <p>4 A. Yes, the guidelines in this document, 5 2007, are different from what McDonald's guidelines 6 were.</p> <p>7 BY MS. SCHWARTZ:</p> <p>8 Q. And the McDonald's guidelines had a 9 lower amount of ammonia that birds were allowed to 10 be exposed to at that time, correct?</p> <p>11 MR. FONTECILLA: Same objection.</p> <p>12 A. Yes, that's correct.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And do you have an understanding as to 15 the impact ammonia levels could have on hens?</p> <p>16 A. Not very well.</p> <p>17 Q. Do you have any understanding?</p> <p>18 A. Not a scientific understanding, no.</p> <p>19 Q. Do you know why McDonald's had a 20 requirement and a maximum that hens could be -- let 21 me start over.</p> <p>22 Sitting here today, do you have an 23 understanding as to why McDonald's had a maximum 24 ammonia concentration for the hens that produced 25 their eggs?</p>	<p style="text-align: center;">93</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. -- that there were components of the 3 McDonald's animal welfare guidelines that were more 4 stringent than the UEP guidelines at that time?</p> <p>5 A. Yes. They had requirements that were 6 different; for example, 72 inches versus 67.</p> <p>7 Q. And at that time, Cargill required its 8 producers to comply with the animal welfare 9 guidelines for any products that would be supplied 10 to McDonald's?</p> <p>11 MR. FONTECILLA: Objection, vague.</p> <p>12 A. McDonald's required the eggs produced 13 under contract specifically for McDonald's to meet 14 those criteria as established in this contract.</p> <p>15 BY MS. SCHWARTZ:</p> <p>16 Q. And, therefore, Cargill required its 17 suppliers for McDonald's to meet those requirements 18 as well?</p> <p>19 MR. FONTECILLA: Same objection.</p> <p>20 A. We required it in alignment with 21 customer needs.</p> <p>22 BY MS. SCHWARTZ:</p> <p>23 Q. And in the 2002 time period, did Sparboe 24 ever tell you that it was impossible to produce 25 eggs in compliance with the McDonald's animal</p>

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<p style="text-align: right;">94</p> <p>welfare guidelines?</p> <p>MR. HARTUNG: Objection, foundation.</p> <p>A. Well, they weren't producing any eggs in 2002. So to that degree, there weren't -- there wasn't a supply -- there weren't any eggs until after that.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. When did Sparboe begin selling eggs or egg products to Cargill?</p> <p>MR. HARTUNG: Objection, foundation.</p> <p>A. For McDonald's or --</p> <p>BY MS. SCHWARTZ:</p> <p>Q. For McDonald's?</p> <p>A. The time period, I believe, is laid out in this contract when the first eggs became available, which I believe were in 2003.</p> <p>Q. Then let me ask the same question with regard to 2003. Did Sparboe ever tell Cargill that it was impossible to produce eggs or egg products in compliance with the McDonald's animal welfare guidelines?</p> <p>MR. SVEEN: Objection, foundation.</p> <p>A. Not that I'm aware of.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. Did Daybreak also produce eggs or egg</p>	<p style="text-align: right;">96</p> <p>MR. SVEEN: Objection, foundation. To the extent you know...</p> <p>MR. FONTECILLA: And I'm going to just make a standing objection to the extent counsel insists on continuing to use the term or phrase "egg and egg products" because it mischaracterizes the witness' testimony.</p> <p>A. At the Graettinger facility, I'm not aware of them not being able to meet our needs.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. And you can put those documents away. Has Cargill ever required one of its suppliers to be a UEP member?</p> <p>A. No.</p> <p>Q. Specifically, do you recall whether Cargill ever required Sparboe to rejoin UEP?</p> <p>A. I recall that we have never required that in any contracts or discussions.</p> <p>Q. Do you know who Kevin Haley is?</p> <p>A. I believe he was one of the attorneys for UEP back in the mid 2000s, if that's the right name.</p> <p>Q. Would he --</p> <p>A. If that's the right person.</p> <p>Q. Sorry to interrupt you. Do you have an</p>
<p style="text-align: right;">95</p> <p>products for your McDonald's customer?</p> <p>MR. CAMPBELL: Objection to the characterization of "egg" and "egg products" and mischaracterizes the witness' testimony.</p> <p>A. The Graettinger contract we talked about earlier in 2003, I believe, was amended to be under the McDonald's guidelines.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. And the eggs or egg products intended for McDonald's, would those eggs have to be produced under these same animal welfare guidelines that we're looking at in Exhibit 1?</p> <p>MR. FONTECILLA: Same objection, mischaracterizes the witness' testimony as to eggs and egg products. The witness has testified that Cargill purchases raw, unpasteurized liquid egg.</p> <p>A. The Graettinger contract was for liquid egg products that would have had a similar Exhibit D as is in this contract we're talking about.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. Did Daybreak ever tell Cargill that it was not possible to produce eggs or egg products consistent with the McDonald's animal welfare guidelines?</p>	<p style="text-align: right;">97</p> <p>understanding today as to whether he would have provided legal advice to UEA as well?</p> <p>A. I don't recall that. I just don't recall.</p> <p>MS. SCHWARTZ: Why don't we take a quick break. I just have a couple more questions, but I'll get my documents marked and be ready to finish this up.</p> <p>MR. SVEEN: Okay.</p> <p>THE WITNESS: Okay.</p> <p>THE VIDEOGRAPHER: We are going off the record at 11:36 a.m.</p> <p>(Whereupon, a recess was taken from 11:36 a.m. to 11:43 a.m.)</p> <p>THE VIDEOGRAPHER: We are back on the record. This is the continuing videotaped deposition of Norm R. Stocker taken on April 24th 2014. The time now is 11:43 a.m.</p> <p>BY MS. SCHWARTZ:</p> <p>Q. We are back on the record after a quick break, and I have hopefully just a couple more questions for you. I wanted to ask you if you have an understanding of what the term "master case" means with regard to packaging.</p> <p>A. Yes. It's basically a corrugated box.</p>

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<p style="text-align: center;">98</p> <p>1 Q. And how does Cargill use a master case? 2 A. At egg plants or within Cargill's 3 facilities?</p> <p>4 Q. Let me go ahead and mark this, and it 5 may just be easier to look at this. I'm marking as 6 Exhibit 7 -- I'll give you the chance to read these 7 e-mails all the way through.</p> <p>8 (Stocker Exhibit 7 was marked for 9 identification.)</p> <p>10 BY MS. SCHWARTZ:</p> <p>11 Q. And Exhibit 7 is Bates labeled 12 DAY0026242.</p> <p>13 A. (Reading).</p> <p>14 Q. And have you had the chance to read 15 these e-mails?</p> <p>16 A. Not every word, but skimmed over it, 17 yes.</p> <p>18 Q. And these appear to be a series of 19 e-mails from 2005 and then 2007, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And they appear to discuss shell egg 22 master cases?</p> <p>23 A. That is correct.</p> <p>24 Q. And, again, what are shell egg master 25 cases?</p>	<p style="text-align: center;">100</p> <p>1 would her responsibilities have been? 2 MR. FONTECILLA: Objection, vague.</p> <p>3 A. Ros's responsibilities would have been 4 to ensure McDonald's got what they needed when they 5 needed it and in line with the requirements.</p> <p>6 BY MS. SCHWARTZ:</p> <p>7 Q. And that would be -- let me step back. 8 Does Cargill take care of the actual 9 delivery of eggs to McDonald's?</p> <p>10 A. Today we do not. Back then, we might 11 have.</p> <p>12 Q. And her e-mail writes in part, "The 13 answer to the question about whether or not all 14 master cases should be compliant with all states is 15 yes. Our shell egg contingency plan requires all 16 locations to be able to back each other up." Do 17 you see that?</p> <p>18 MR. FONTECILLA: Objection.</p> <p>19 A. Yes.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. And what is a shell egg contingency 22 plan?</p> <p>23 A. In this specific case, it's a plan to 24 ensure that we always keep McDonald's restaurants 25 supplied with shell eggs.</p>
<p style="text-align: center;">99</p> <p>1 A. In this context, it was a master case 2 that held flats of shell eggs for sale to a 3 customer.</p> <p>4 Q. And the e-mails discuss how those master 5 cases are going to be labeled, correct?</p> <p>6 MR. FONTECILLA: Objection. The 7 document speaks for itself.</p> <p>8 A. Yeah. It talks about State 9 requirements, State labeling requirements and 10 stuff, yes.</p> <p>11 BY MS. SCHWARTZ:</p> <p>12 Q. And why don't we start on the second 13 page of this document.</p> <p>14 A. Okay.</p> <p>15 Q. And if we look at the September 8th 2005 16 e-mail from a Rosalind -- is it Zils?</p> <p>17 A. I'm sorry.</p> <p>18 Q. September 8th --</p> <p>19 A. In the middle of the page? Rosalind 20 Zils is correct.</p> <p>21 Q. And who is Rosalind Zils?</p> <p>22 A. At this time period, Rosalind was the 23 McDonald's supply chain manager within Cargill 24 Kitchen Solutions, or Sunny Fresh at the time.</p> <p>25 Q. And with regard to McDonald's, what</p>	<p style="text-align: center;">101</p> <p>1 Q. And with regard to Cargill's shell egg 2 contingency plan for McDonald's, can you describe 3 in some more specificity what that is?</p> <p>4 A. At a high level in this case, it was 5 making sure we had master case either printed or 6 printing plates for specific locations that were 7 not part of the routine supply chain, should that 8 routine supply chain have a problem and we need to 9 go to a subsequent facility to get shell eggs for 10 McDonald's.</p> <p>11 Q. So if your usual facility that was 12 supplying McDonald's had an emergency or lack of 13 supply or something that impacted the eggs, it's 14 the ability for Cargill to locate eggs somewhere 15 else?</p> <p>16 MR. FONTECILLA: Objection, form.</p> <p>17 A. It could be that or even an increased 18 demand in a promotional period.</p> <p>19 BY MS. SCHWARTZ:</p> <p>20 Q. And if you turn -- and it appears from 21 this e-mail that --</p> <p>22 A. Which page are you on now?</p> <p>23 Q. Let's keep on page 2.</p> <p>24 A. Okay.</p> <p>25 Q. Do you have an understanding of -- well,</p>

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<p>102</p> <p>1 let me ask, were you involved at all with master 2 case labeling?</p> <p>3 A. I personally was not.</p> <p>4 Q. Do you have an understanding of 5 generally what States may require on a label?</p> <p>6 A. About -- not specifically other than 7 some States have licensing requirements and some 8 States don't.</p> <p>9 Q. And if you turn to the first page of 10 this e-mail string, and now we're looking at an 11 October 15th 2007 e-mail. Do you see that there 12 are two of them actually on that front page?</p> <p>13 A. Yes, I do.</p> <p>14 Q. And the bottom one is from Lolita 15 Luchsinger.</p> <p>16 A. Luchsinger.</p> <p>17 Q. Luchsinger.</p> <p>18 A. Correct.</p> <p>19 Q. And what was her role at Cargill?</p> <p>20 A. Her role is in supply quality assurance.</p> <p>21 Q. And if you go down that e-mail, this 22 e-mail was sent to you and two others at Daybreak 23 Foods, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And do you know who</p>	<p>104</p> <p>1 that means?</p> <p>2 A. Not really, other than it's the -- I 3 assume it's the license number for the State of 4 Kansas.</p> <p>5 Q. Does Cargill sell eggs in the state 6 of -- sell eggs or egg products in the state of 7 Kansas?</p> <p>8 MR. FONTECILLA: Objection, foundation.</p> <p>9 A. Cargill has customers in Kansas, yes.</p> <p>10 BY MS. SCHWARTZ:</p> <p>11 Q. And is one of those customers 12 McDonald's?</p> <p>13 MR. FONTECILLA: Same objection.</p> <p>14 A. I'm not sure if they have a DC in Kansas 15 or not. We sell to the distribution centers.</p> <p>16 BY MS. SCHWARTZ:</p> <p>17 Q. Do you have an understanding of why a 18 Kansas permit might be required?</p> <p>19 MR. FONTECILLA: Objection, calls for 20 speculation, calls for a legal conclusion, 21 foundation.</p> <p>22 A. Because the shell egg eventually gets 23 consumed or used in a restaurant in that state.</p> <p>24 BY MS. SCHWARTZ:</p> <p>25 Q. And do you understand this e-mail</p>
<p>103</p> <p>1 William@DaybreakFoods.com would be?</p> <p>2 A. Yes.</p> <p>3 Q. And who is that?</p> <p>4 A. That is Bill Rehm.</p> <p>5 Q. And do you have an understanding of who 6 Pat@DaybreakFoods.com is?</p> <p>7 A. Yes.</p> <p>8 Q. And who is that?</p> <p>9 A. That is Pat Stonger, although her last 10 name is changed now.</p> <p>11 Q. And who are those two individuals?</p> <p>12 A. Bill is the president, and Pat is in 13 charge of QA.</p> <p>14 Q. And if you look down on this e-mail, 15 you'll see number 2 there.</p> <p>16 A. Yes.</p> <p>17 Q. And it says, "To make both suppliers 18 compliant with all State requirements, here is the 19 language that should be put on the case." Do you 20 see that sentence?</p> <p>21 A. Yes, I do.</p> <p>22 Q. And below that, it says in part "Kansas 23 permit"?</p> <p>24 A. Yes. I see that.</p> <p>25 Q. And do you have an understanding of what</p>	<p>105</p> <p>1 that -- this string of e-mails that Cargill's 2 master cases that were going to McDonald's 3 locations needed to have this Kansas permit number 4 on the label?</p> <p>5 MR. FONTECILLA: Objection, calls for a 6 legal conclusion, calls for speculation, vague, 7 mischaracterizes the document.</p> <p>8 A. As part of our contingency plan, we 9 basically make sure that all locations can go to 10 any state, because in a contingency, you don't have 11 time to deal with this. So you do it in case. You 12 may never use it.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. And who would have been putting the -- 15 who physically would have been putting the labels 16 on the master cases?</p> <p>17 A. The manufacturer of the master case.</p> <p>18 Q. Is that something that Cargill 19 coordinates?</p> <p>20 MR. FONTECILLA: Objection, vague.</p> <p>21 A. Generally the supplier works with their 22 surrogate or master case supplier. We do require 23 sign-off on that printing plate before it's 24 produced.</p> <p>25</p>

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<p style="text-align: right;">106</p> <p>1 BY MS. SCHWARTZ: 2 Q. And in this case, do you know, was 3 Daybreak responsible for the labeling for these 4 McDonald's eggs? 5 MR. FONTECILLA: Objection. 6 A. They would have been responsible to have 7 a label that was approved by Cargill and 8 McDonald's. 9 BY MS. SCHWARTZ: 10 Q. And also in that paragraph 2 -- do you 11 know the time period in which Cargill may have been 12 supplying the McDonald's facilities in Kansas? 13 MR. FONTECILLA: Objection, foundation. 14 A. I don't -- again, our transaction ends 15 at the sale to the distribution center. And so I 16 don't know specifically if there was a 17 distribution -- if there was or is a DC in Kansas. 18 BY MS. SCHWARTZ: 19 Q. I see that there -- it certainly doesn't 20 appear that you've got all of the states listed 21 there. Correct? 22 MR. FONTECILLA: Objection, vague. 23 A. I assume it's all the states that have a 24 requirement.</p>	<p style="text-align: right;">108</p> <p>1 MR. FONTECILLA: Objection, vague, form. 2 A. No. Unless a distribution center 3 changed. But we supplied all of them west of the 4 Mississippi. 5 BY MS. SCHWARTZ: 6 Q. You can put that away. 7 You had testified earlier this morning 8 about the Urner Barry pricing, correct? 9 A. Correct. 10 Q. Do you have an understanding of the 11 factors that impact the Urner Barry price? 12 A. Yes. 13 Q. And what is your understanding? 14 A. Urner Barry basically -- report is a 15 market reporting service, and reports what they 16 think egg products, in this specific case, are 17 trading at today. 18 Q. And would supply and demand factors, to 19 your knowledge, impact the Urner Barry price? 20 MR. FONTECILLA: Objection, foundation, 21 calls for speculation. 22 A. The Urner Barry quotation would reflect 23 the current market fundamentals. 24 BY MS. SCHWARTZ: 25 Q. And would those market fundamentals</p>
<p style="text-align: right;">107</p> <p>1 BY MS. SCHWARTZ: 2 Q. And did Cargill serve the McDonald's 3 restaurants that were west of the Mississippi? 4 MR. FONTECILLA: Objection, 5 mischaracterizes the witness' testimony about 6 serving restaurants. 7 A. Cargill sold at this time period shell 8 eggs and egg products to McDonald's distribution 9 centers west of the Mississippi. 10 BY MS. SCHWARTZ: 11 Q. To the best of your knowledge, was 12 Cargill the sole supplier for those restaurants -- 13 for those facilities west of the Mississippi? 14 MR. FONTECILLA: Objection, form. 15 A. Yes. For those distribution centers and 16 egg products for McDonald's, we were the sole 17 supplier. 18 BY MS. SCHWARTZ: 19 Q. And these e-mails are from 2005 and 20 2007. Sitting here today, does Cargill continue to 21 supply McDonald's distribution facilities west of 22 the Mississippi? 23 A. Yes, we do. 24 Q. Did that change at any time from 2007 to 25 the present?</p>	<p style="text-align: right;">109</p> <p>1 include the supply of eggs in the country? 2 MR. FONTECILLA: Same objection. 3 A. Yes. The quotation would reflect the 4 balance of supply and demand. 5 BY MS. SCHWARTZ: 6 Q. And just one last document to pull out. 7 If you can pull back out that Exhibit 1. It's the 8 supply agreement. If you would turn to page 3 -- 9 and, actually, let me ask you a question before we 10 look specifically at the document. 11 Did Cargill have the right to 12 renegotiate its prices during the term of the 13 contract with Sparboe, for example? 14 MR. HARTUNG: Objection, foundation. 15 A. Without reviewing this specific 16 contract, most of our contracts have the right for 17 both parties to mutually agree upon changes. 18 BY MS. SCHWARTZ: 19 Q. And sitting here today, do you recall 20 whether Cargill ever approached Sparboe 21 specifically during the time from 2003 to the 22 present to discuss and renegotiate the prices? 23 MR. HARTUNG: Objection, foundation. 24 A. We would have had discussions regarding 25 things that impacted cost at that facility.</p>

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<p style="text-align: center;">110</p> <p>1 BY MS. SCHWARTZ:</p> <p>2 Q. Do you remember specifically any of 3 those discussions?</p> <p>4 MR. HARTUNG: Same objection.</p> <p>5 A. I remember having discussions several 6 times with David Cisneros at the time with Sparboe 7 looking at the annual performance and having those 8 renegotiations.</p> <p>9 BY MS. SCHWARTZ:</p> <p>10 Q. And what about with regard to Daybreak, 11 the same question? Do you remember having any 12 discussions with Daybreak from 2003 to the present 13 regarding the pricing of the products you purchased 14 from Daybreak?</p> <p>15 A. Yes. I've, over the years, had 16 discussions and renegotiated contracts mutually 17 with Daybreak.</p> <p>18 Q. And let's take these apart again. With 19 regard to Sparboe, did Cargill ever renegotiate 20 because it thought the prices were too high?</p> <p>21 MR. HARTUNG: Objection, foundation.</p> <p>22 A. As a buyer, I always think the price is 23 high. The only renegotiations we had were based 24 on, for example, in the Sparboe contract 25 specifically, this animal husbandry standard didn't</p>	<p style="text-align: center;">112</p> <p>1 understand the question.</p> <p>2 BY MS. SCHWARTZ:</p> <p>3 Q. In -- you had testified earlier, as a 4 buyer, you always think prices are too high.</p> <p>5 A. Yes.</p> <p>6 Q. Do you ever compare the price that 7 Cargill is receiving to compare it with the Urner 8 Barry price that's available in the market?</p> <p>9 MR. FONTECILLA: Objection, 10 mischaracterizes the witness' testimony, vague.</p> <p>11 A. For grain-based contracts, the market is 12 irrelevant to me. They're more about the cost of 13 producing eggs.</p> <p>14 BY MS. SCHWARTZ:</p> <p>15 Q. With regard to the market purchases 16 you've made, you testified this morning that 17 Cargill has made market purchases from Daybreak, 18 correct?</p> <p>19 A. That is correct.</p> <p>20 Q. Has Cargill also made market purchases 21 from Sparboe?</p> <p>22 A. Yes. That is correct.</p> <p>23 Q. And I don't know all of the producers 24 that Cargill may do business with. So let me ask 25 just a couple of questions. Does Cargill buy from,</p>
<p style="text-align: center;">111</p> <p>1 exist, so they had to put estimates together. Once 2 we knew better how this facility was performing, 3 there was, in one specific instance, a reduction in 4 the base pricing because some of the projections 5 were conservative. And so we mutually agreed to 6 make an adjustment.</p> <p>7 BY MS. SCHWARTZ:</p> <p>8 Q. And the same question with regard to 9 Daybreak. Do you recall from 2003 to the present 10 any renegotiation by Cargill because they thought 11 the price was too high?</p> <p>12 MR. FONTECILLA: Objection, calls for 13 speculation.</p> <p>14 A. I recall at the Graettinger facility 15 specifically the same situation in regards to the 16 McDonald's animal husbandry standards, where once 17 we knew more about how the birds would perform, 18 that we made a one-time adjustment in the base 19 pricing to reflect that.</p> <p>20 BY MS. SCHWARTZ:</p> <p>21 Q. Do you ever compare the Urner Barry 22 price with the price that you were receiving from a 23 supplier?</p> <p>24 MR. FONTECILLA: Objection, vague.</p> <p>25 A. Every -- yeah, I guess I don't</p>	<p style="text-align: center;">113</p> <p>1 for example, Rose Acre?</p> <p>2 A. It's been many years.</p> <p>3 Q. Would it have been --</p> <p>4 A. We likely did in the past, but it's been 5 a long time.</p> <p>6 Q. Would it have been since 1999?</p> <p>7 MR. FONTECILLA: Objection. I'm just 8 going to make an objection to the extent that these 9 questions do not specify a particular product or 10 time period.</p> <p>11 A. My memory says if we did, it was less 12 than a handful of loads.</p> <p>13 BY MS. SCHWARTZ:</p> <p>14 Q. Sitting here today, do you recall 15 whether those purchases would have been on the 16 market?</p> <p>17 A. If we had purchased from Rose Acres, 18 they would have been considered a market -- a 19 market purchase, yes.</p> <p>20 Q. Sitting here today, do you recall 21 whether Cargill has purchased from Ohio Fresh?</p> <p>22 MR. FONTECILLA: Same objection.</p> <p>23 A. I'm not familiar with any purchases from 24 Ohio Fresh or any of its predecessor companies that 25 were basically the same facilities.</p>

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<p style="text-align: center;">114</p> <p>1 BY MS. SCHWARTZ: 2 Q. And sitting here today, has Cargill 3 purchased on a market basis from Sauder? 4 MR. FONTECILLA: Same objection. 5 A. No, we have not, that I'm aware of. 6 BY MS. SCHWARTZ: 7 Q. Going back to both Sparboe and 8 Daybreak -- and I'll take them individually -- back 9 in the -- looking at 2003 to the present -- 10 A. Okay. 11 Q. -- would it be your understanding that 12 Cargill would have made a market purchase every 13 year or -- 14 A. From -- 15 MR. FONTECILLA: Object -- sorry, 16 Mr. Stocker. Sorry to interrupt. I just want to 17 make an objection as to form, and the question was 18 vague and compound. 19 MS. SCHWARTZ: And let me finish my 20 question, and then you're welcome to make any 21 objection you want. 22 MR. FONTECILLA: I'm sorry, Counsel, I 23 thought you were finished. 24 BY MS. SCHWARTZ: 25 Q. Starting from the time frame -- all of</p>	<p style="text-align: center;">116</p> <p>1 plaintiffs' counsel on the phone have any 2 questions? Plaintiffs' counsel in the room? 3 Okay. I have a few follow-up questions. 4 I don't need to take a break. 5 THE WITNESS: Yeah, I'm good. 6 EXAMINATION BY COUNSEL FOR DAYBREAK FOODS 7 BY MR. FONTECILLA: 8 Q. Mr. Stocker, thank you for your patience 9 today. Just a couple quick questions. Do you 10 remember Ms. Schwartz some time ago asking you some 11 questions about the Capper-Volstead Act? Do you 12 recall that? 13 A. Yes, I do. 14 Q. Are you an expert with regards to 15 Capper-Volstead? 16 A. No, I'm not an expert. 17 Q. Are you familiar with the text of the 18 law that's referred to as Capper-Volstead? 19 A. I'm fairly sure I've never read it. 20 Q. And if you could refer to Exhibit 7, 21 which is the last exhibit that was shown to you 22 there, the contingency plan that is referred to in 23 that document, that does not in any way mean that 24 it was actually enacted for any particular facility 25 or State; is that correct?</p>
<p style="text-align: center;">115</p> <p>1 these questions will be from 2003 to the present. 2 A. Okay. And specific to which supplier 3 again? I apologize. 4 Q. Let's start with Daybreak. 5 A. Okay. 6 Q. Would it be your expectation that 7 Cargill had made a market purchase from Daybreak in 8 each of those years? 9 MR. FONTECILLA: Objection. 10 A. It's likely. 11 BY MS. SCHWARTZ: 12 Q. And the same question with regard to 13 Sparboe. Would it be your expectation that Cargill 14 would have made a market purchase from Sparboe in 15 each of those years? 16 MR. HARTUNG: Objection. 17 A. Yes. 18 MS. SCHWARTZ: I have no further 19 questions. Thank you very much for your time, sir. 20 THE WITNESS: You're welcome. 21 MR. SVEEN: Anybody else -- anybody on 22 the phone? 23 MR. ALMON: This is James Almon. I 24 don't have any questions. 25 MR. FONTECILLA: Do any other</p>	<p style="text-align: center;">117</p> <p>1 MS. SCHWARTZ: Objection to form. 2 A. We have -- that is correct. 3 Our contingency plans -- we have lots of 4 contingency plans. Not all of them get utilized. 5 BY MR. FONTECILLA: 6 Q. And the fact that Cargill's contingency 7 plan may or may not require certain requirements as 8 to labels for a case does not actually mean that 9 cases with any particular label were ever produced; 10 is that right? 11 MS. SCHWARTZ: Objection to form. 12 A. That is correct. Even some of the text 13 in here indicates have the plates ready, but not 14 print the master case. 15 BY MR. FONTECILLA: 16 Q. And is there any way looking at this 17 document to determine whether any cases with any 18 particular permit number as listed on the first 19 page were ever produced? 20 A. I'd have to read through. Could you 21 rephrase the question please, or restate it? 22 Q. Are you aware of -- sitting here today 23 or based on your personal recollection, aware of 24 any cases ever being made with the labels as 25 described here in the first page of Exhibit 7?</p>

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<p style="text-align: center;">118</p> <p>A. Yes. We would have made cases.</p> <p>Q. Can you recall any cases being sent out by Daybreak that would have had any of the particular specific text that is listed here in the first page of Exhibit 7, to the best of your recollection?</p> <p>A. I don't recall a situation where that -- where we would have sent out a case from Daybreak with these specifications on it.</p> <p>Q. And there's no way to tell from this document whether Daybreak ever shipped any cases with any of these particular labels as described on page 1 of Exhibit 7; is that correct?</p> <p>A. That is correct.</p> <p>Q. Okay. And just two more questions. And we can set this document aside. Earlier do you recall Ms. Schwartz asking you certain questions about customers who did not request a 67-inch cage space requirement?</p> <p>A. I recall that discussion, yes.</p> <p>Q. Do customers of Cargill request cage space requirements that are above 67 inches from time to time between 1999 and 2008?</p> <p>A. Yes. We have customers that have a higher standard.</p>	<p style="text-align: center;">120</p> <p>could restate the question?</p> <p>BY MR. FONTECILLA:</p> <p>Q. Sure. I'll just try one more time.</p> <p>A. Okay.</p> <p>Q. Did the general -- do you remember testifying generally that the requirements and specifications required of Daybreak under the supply agreements including cage space requirements -- do you recall that?</p> <p>A. I do recall that.</p> <p>Q. And do you recall testifying that some of those requirements were included in the supply contract because Cargill's customers required those specifications of Cargill? Do you recall that?</p> <p>A. I do recall that.</p> <p>Q. And would that general testimony change if I had asked those questions earlier for the time period 2008 to the present?</p> <p>MR. SVEEN: Objection. It's the same objection. It's still re-asking all the questions from this morning.</p> <p>A. I'm not aware of any of the answers that would have changed if the time period had been lengthened.</p> <p>MR. FONTECILLA: I have no further</p>
<p style="text-align: center;">119</p> <p>Q. And some of the customers request 67 inches as one of the cage space requirements as well; is that correct?</p> <p>A. We have some customers -- yes, that is correct.</p> <p>Q. And do some customers require a less cage space requirement than 67 inches or no cage space requirement at all?</p> <p>A. That is correct.</p> <p>Q. And Ms. Schwartz also started off her questioning to you by making certain statements about a time period after 2008. Do you recall that?</p> <p>A. I do recall that.</p> <p>Q. Would any of your testimony to my questions earlier today about the Daybreak facilities and the animal welfare requirements -- would that have changed if I had mentioned the time period 2008 to the present?</p> <p>MR. SVEEN: I'm going to object to the form of that question.</p> <p>MS. SCHWARTZ: And same objection. It requires essentially re-asking every question from the entire morning.</p> <p>A. Yeah. Is there a different way you</p>	<p style="text-align: center;">121</p> <p>questions.</p> <p>EXAMINATION BY COUNSEL FOR THE KANSAS PLAINTIFFS</p> <p>BY MS. SCHWARTZ:</p> <p>Q. I have one last follow-up question.</p> <p>A. Sure.</p> <p>Q. To your knowledge, was Daybreak aware that Cargill was supplying McDonald's west of the Mississippi?</p> <p>A. Yes.</p> <p>MS. SCHWARTZ: No further questions.</p> <p>MR. SVEEN: Everybody good? All right.</p> <p>THE VIDEOGRAPHER: We're going off the record at 12:13 p.m.</p> <p>(Reading and signing reserved).</p> <p>(Whereupon, at 12:13 p.m. the videotaped deposition was adjourned.)</p> <p style="text-align: center;">* * * * *</p>

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Stocker, Norm

April 24, 2014

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me, and any corrections appear on the attached Errata Sheet signed by me.

(DATE) (SIGNATURE)

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REPORTER'S CERTIFICATE
STATE OF MINNESOTA)

ss.
COUNTY OF HENNEPIN)
I hereby certify that I reported the
deposition of NORM R. STOCKER on April 24, 2014, in
Minneapolis, Minnesota, and that the witness was by
me first duly sworn to tell the whole truth;

That the testimony was transcribed by me and that this transcript is a true record of the testimony of the witness;

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

That I am not a relative or employee or attorney or counsel of any of the parties, or a

relative or employee of such attorney or counsel;
That I am not financially interested in
the action and have no contract with the parties.

the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality.

WITNESS MY HAND AND SEAL THIS 28th day
of April, 2014.

Jonathan Wonnell
Notary Public, Hennepin County, Minnesota
My Commission expires January 31, 2017